STATUTES OF CALIFORNIA

1985–86

REGULAR SESSION

1985 CHAPTERS

CHAPTER 1

An act to amend Section 1596.886 of the Health and Safety Code, relating to the California Child Day Care Facilities Act, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor December 10, 1984. Filed with Secretary of State December 10, 1984.]

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

SECTION 1. Section 1596.886 of the Health and Safety Code is amended to read:

1596.886. The director may temporarily suspend any license, registration, or special permit prior to any hearing when, in the opinion of the director, the action is necessary to protect any child of a child day care facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee, registrant, or holder of the special permit of the temporary suspension and the effective date thereof and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, registrant, or holder of the special permit, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

SEC. 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:

Chapter 1615 of the Statutes of 1984, effective January 1, 1985, inadvertently deprived the Director of Social Services of power to temporarily suspend licenses, registrations, and special permits of family day care homes in the same manner as the licenses, registrations, and special permits of other child care facilities may be suspended. In order to rectify this oversight at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 2

An act relating to public works, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor December 10, 1984. Filed with Secretary of State December 10, 1984.]

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

SECTION 1. The State Public Works Board may issue bond anticipation notes, according to Article 3 of Chapter 3.5 of Division 3 of Title 2 (commencing with Section 15820.10) of the Government Code and Section 15832.5 of the Government Code, in anticipation of High Technology Education Revenue Bonds for the construction of the facilities authorized by the Budget Act of 1984 (Ch. 258, Stats. 1984).

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 expedite the construction of public high technology facilities already approved in the Budget Act of 1984, it is necessary that this act take effect immediately.

CHAPTER 3

An act to amend Sections 11055, 11356.5, 11377, 11378, 11378.5, 11379, 11379.5, 11380, 11380.5, 11382, 11383, 11470, and 11550 of, and to add Section 11379.6 to, the Health and Safety Code, and to amend Section 1203.07 of the Penal Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor January 29, 1985. Filed with Secretary of State January 29, 1985]

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

SECTION 1. Section 11055 of the Health and Safety Code is amended to read:

11055. (a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or

preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl-14-hydroxy-nordihydromorphinone hydrochloride), but including the following:

(A) Raw opium.
(B) Opium extracts.
(C) Opium fluid extracts.
(D) Powdered opium.
(E) Granulated opium.
(F) Tincture of opium.
(G) Apomorphine.
(H) Codeine.
(I) Ethylmorphine.
(J) Hydrocodone.
(K) Hydromorphone.
(L) Metopon.
(M) Morphine.
(N) Oxycodone.
(O) Oxymorphone.
(P) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alphaprodine.
(2) Anileridine.
(3) Bezitramide.
(4) Bulk dextropropoxyphene (nondosage forms).
(5) Dihydrocodeine.
(6) Dihenoxylate.
(7) Fentanyl.
(8) Isomethadone.
(9) Levomethorphan.
(10) Levorphanol.

(11) Metazocine.
(12) Methadone.
(13) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
(14) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
(15) Pethidine (meperidine).
(16) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
(17) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
(18) Pethidine-Intermediate-C,-1-methyl 4-phenylpiperidine-4-carboxylic acid.
(19) Phenazocine.
(20) Piminodine.
(21) Racemethorphan.
(22) Racemorphan.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
(2) Methamphetamine, its salts, isomers, and salts of its isomers.
(3) Phenmetrazine and its salts.
(4) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital.
(2) Pentobarbital.
(3) Phencyclidines, including the following:
(A) 1-(1-phenylcyclohexyl) piperidine (PCP).
(B) 1-(1-phenylcyclohexyl) morpholine (PCM).

The Attorney General, or his or her designee, may, by rule or regulation, add additional analogs of phencyclidine to those enumerated in this paragraph after notice, posting, and hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Attorney General shall, in the calendar year of the regular session of the Legislature in which the rule or regulation is adopted, submit a draft of a proposed bill to each house of the Legislature which would incorporate the analogs into this code. No rule or regulation shall remain in effect beyond January 1 after the calendar year of the regular session in which the draft of the proposed bill is submitted

to each house. However, if the draft of the proposed bill is submitted during a recess of the Legislature exceeding 45 calendar days, the rule or regulation shall be effective until January 1 after the next calendar year.

(4) Secobarbital.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone. Some trade or other names: phenyl-2 propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine.

(B) 1-piperidinocyclohexanecarbonitrile (PCC).

SEC. 2. Section 11356.5 of the Health and Safety Code is amended to read:

11356.5. Any person convicted of a violation of Section 11351, 11352, 11379.5, or 11379.6 insofar as the latter section relates to phencyclidine or any of its analogs which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055, who, as part of the transaction for which he or she was convicted, has induced another to violate Section 11351, 11352, 11379.5, or 11379.6 insofar as the latter section relates to phencyclidine or its analogs, shall be punished by an additional one year in prison if the value of the controlled substance involved in the transaction for which the person was convicted exceeds five hundred thousand dollars ($500,000), by an additional two years in prison if the value of the controlled substance involved in the transaction for which the person was convicted exceeds two million dollars ($2,000,000), or by an additional three years in prison if the value of the controlled substance involved in the transaction for which the person was convicted exceeds five million dollars ($5,000,000). For purposes of this section, "value of the controlled substance" means the retail price to the user.

SEC. 3. Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as otherwise provided in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), or (3) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

SEC. 4. Section 11378 of the Health and Safety Code is amended

to read:

11378. Except as otherwise provided in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses for sale any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), or (3) specified in subdivision (d), (e), or (f), except paragraph (3) of subdivision (e) and subparagraphs (A) and (B) of paragraph (2) of subdivision (f), of Section 11055, shall be punished by imprisonment in the state prison.

SEC. 5. Section 11378.5 of the Health and Safety Code is amended to read:

11378.5. Except as otherwise provided in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses for sale phencyclidine or any analog or any precursor of phencyclidine which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) or in subdivision (f), except subparagraph (A) of paragraph (1) of subdivision (f), of Section 11055, shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 6. Section 11379 of the Health and Safety Code is amended to read:

11379. Except as otherwise provided in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), or (3) specified in subdivision (d) or (e), except paragraph (3) of subdivision (e), or specified in subparagraph (A) of paragraph (1) of subdivision (f), of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of two, three, or four years.

SEC. 7. Section 11379.5 of the Health and Safety Code is amended to read:

11379.5. Except as otherwise provided in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport phencyclidine or any of its analogs which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision

(e) of Section 11055, or its precursors as specified in subparagraph (A) or (B) of paragraph (2) of subdivision (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 8. Section 11379.6 is added to the Health and Safety Code, to read:

11379.6. (a) Except as otherwise provided by law, every person who manufactures, compounds, converts, produces, derives, processes, or prepares, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, any controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 shall be punished by imprisonment in the state prison for three, four, or five years.

(b) Except as otherwise provided by law, every person who offers to perform an act which is punishable under subdivision (a) shall be punished by imprisonment in the state prison for three, four, or five years.

SEC. 9. Section 11380 of the Health and Safety Code is amended to read:

11380. Every person 18 years of age or over who violates any provision of this chapter involving controlled substances which are (1) classified in Schedule III, IV, or V and which are not narcotic drugs or (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), or specified in subdivision (d), (e), or (f) of Section 11055, except paragraph (3) of subdivision (e) and subparagraphs (A) and (B) of paragraph (2) of subdivision (f), by the use of a minor as agent, who solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this article involving those controlled substances or who unlawfully furnishes, offers to furnish, or attempts to furnish those controlled substances to a minor shall be punished by imprisonment in the state prison for a period of three, four, or five years.

(b) Nothing in this section applies to a registered pharmacist furnishing controlled substances pursuant to a prescription.

SEC. 10. Section 11380.5 of the Health and Safety Code is amended to read:

11380.5. (a) Every person 18 years of age or over who violates any provision of this chapter involving phencyclidine or any of its analogs which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or paragraph (3) of subdivision (e) of Section 11055, or its precursors as specified in subparagraphs (A) and (B) of paragraph (2) of subdivision (f) of Section 11055 by the use of a minor as agent, who solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this article involving the controlled substances or who unlawfully furnishes, offers to furnish, or attempts to furnish the

controlled substances to a minor shall be punished by imprisonment in the state prison for a period of three, four, or five years.

(b) Nothing contained in this section applies to a registered pharmacist furnishing controlled substances pursuant to a prescription.

SEC. 11. Section 11382 of the Health and Safety Code is amended to read:

11382. Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, or (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), or specified in subdivision (d), (e), or (f) of Section 11055, to any person, or offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and then sells, delivers, furnishes, transports, administers, or gives, or offers, or arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or material in lieu of any such controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 12. Section 11383 of the Health and Safety Code is amended to read:

11383. (a) Any person who possesses both methylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture methamphetamine, or who possesses both ethylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture N-ethylamphetamine, is guilty of a felony and shall be punished by imprisonment in the state prison.

(b) Any person who possesses at the same time any of the following combinations, or a combination product thereof, with intent to manufacture phencyclidine (PCP) or any of its analogs specified in paragraph (22) of subdivision (d) of Section 11054 or paragraph (3) of subdivision (e) of Section 11055 is guilty of a felony and shall be punished by imprisonment in the state prison for three, four, or five years:

(1) Piperidine and cyclohexanone.

(2) Pyrrolidine and cyclohexanone.

(3) Morpholine and cyclohexanone.

(c) For purposes of this section, possession of immediate precursors sufficient for the manufacture of methylamine, ethylamine, phenyl-2-propanone, piperidine, cyclohexanone, pyrrolidine, or morpholine shall be deemed to be possession of such a derivative substance. Additionally, possession of any compound or mixture containing piperidine, cyclohexanone, pyrrolidine, or morpholine shall be deemed to be possession of such substance.

(d) The provisions of subdivisions (a), (b), and (c) shall not apply to drug manufacturers licensed by this state or persons authorized by

regulation of the Board of Pharmacy to possess such substances or combinations of substances.

SEC. 13. Section 11470 of the Health and Safety Code is amended to read:

11470. The following are subject to forfeiture:

(a) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this division.

(b) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this division.

(c) All property which is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this division.

(e) The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, which has been used as an instrument to facilitate the possession for sale or sale of 28.5 grams or more of Schedule I controlled substances except marijuana, peyote or psilocybin; 10 pounds dry weight or more of marijuana, peyote or psilocybin; or 28.5 grams or more of any Schedule II controlled substances and the defendant has been convicted of a violation of Section 11351, 11352, 11353, 11359, 11360, 11361, 11378, 11378.5, 11379, 11379.5, 11379.6, or a conspiracy to commit any such violation and the vehicle was used in the commission of the crime for which the conviction was obtained. No interest in a vehicle which may be lawfully driven on the highway with a class 3 or class 4 license, as prescribed in Section 12804 of the Vehicle Code, may be forfeited under this subdivision if there is a community property interest in the vehicle by a person other than the defendant and the vehicle is the sole class 3 or class 4 vehicle available to the defendant's immediate family.

(f) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of Section 11351, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11382 of this code, or Section 182 of the Penal Code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale, or offer to manufacture, or conspiracy to commit at least one of those offenses, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of Section 11351, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, or 11382 of this code, or Section 182 of the Penal Code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale or offer to manufacture, or conspiracy to commit at least one of those offenses, provided that the individual is arrested and convicted, for any of the offenses

enumerated in this subdivision, and provided further that, the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the arrest leading to the conviction of any of the offenses enumerated in this subdivision.

SEC. 14. Section 11550 of the Health and Safety Code is amended to read:

11550. (a) No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days or more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

(b) No person shall use, or be under the influence of, any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 30 days nor more than one year in the county jail. The court may place a person convicted under this subdivision on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that the person be confined in the county jail for at least 30 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 30 days in confinement in the county jail.

SEC. 15. Section 1203.07 of the Penal Code is amended to read:

1203.07. (a) Notwithstanding the provisions of Section 1203, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who is convicted of violating Section 11351 of the Health and Safety Code by possessing for sale 14.25 grams or more of a substance containing heroin.

(2) Any person who is convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell 14.25 grams or more of a substance containing heroin.

(3) Any person convicted of violating Section 11351 of the Health and Safety Code by possessing heroin for sale or convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell heroin, and who has one or more prior convictions for violating Section 11351 or Section 11352 of the Health and Safety Code.

(4) Any person who is convicted of violating Section 11378.5 of the Health and Safety Code by possessing for sale 14.25 grams or more of any salt or solution of any controlled substance specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055 of the Health and Safety Code.

(5) Any person who is convicted of violating Section 11379.5 of the Health and Safety Code by transporting for sale, importing for sale, or administering phencyclidine, or offering to transport for sale, import for sale, or administer phencyclidine, or by attempting to import for sale or transport for sale phencyclidine.

(6) Any person who is convicted of violating Section 11379.5 of the Health and Safety Code by selling, or offering to sell phencyclidine.

(7) Any person who is convicted of violating subdivision (a) of Section 11379.6 of the Health and Safety Code by manufacturing phencyclidine.

As used in this section "manufacture" refers to the act of any person who manufactures, compounds, converts, produces, derives, processes, or prepares, either directly or indirectly by chemical extraction or independently by means of chemical synthesis.

(8) Any person who is convicted of violating Section 11380.5 of the Health and Safety Code by the use of a minor as an agent or who solicits, induces, encourages, or intimidates a minor with the intent that the minor shall violate the provisions of Section 11378.5, 11379.5, or 11379.6 of the Health and Safety Code insofar as the violation relates to phencyclidine or any of its analogs as specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or paragraph (3) of subdivision (e) of Section 11055 of the Health and Safety Code.

(9) Any person who is convicted of violating subdivision (b) of Section 11383 of the Health and Safety Code by possessing piperidine and cyclohexanone with intent to manufacture phencyclidine.

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

SEC. 16. The Legislature finds and declares that Chapter 1635 of the Statutes of 1984 was enacted solely to conform California's

schedules to federal law wherever possible. Over 100 sections in nine separate codes were amended by the measure, which passed the Assembly on the consent calendar and the Senate by unanimous vote.

The Legislature further finds and declares that after enactment of the measure it was discovered that the bill contained drafting errors in technical cross-references inadvertently creating ambiguities regarding the applicability of a number of provisions of prior law regarding the manufacture, sale, or use of certain controlled substances. Accordingly, this measure was introduced at the earliest opportunity available to correct those errors and clarify the continued application of all previous provisions prohibiting the manufacture, sale, or use of controlled substances. It additionally adds provisions unanimously approved by the Legislature in Assembly Bill No. 3165 of the 1983–84 Regular Session of the Legislature regarding the manufacture of controlled substances.

The Legislature therefore expressly finds and declares that Chapter 1635 of the Statutes of 1984 was not intended to reduce or eliminate in any manner previously existing prohibitions against or penalties for the manufacture, sale, or use of controlled substances.

SEC. 17. If this bill and any other bill adding Section 11379.6 to the Health and Safety Code are chaptered during the first year of the 1985–86 Regular Session of the Legislature, the version of Section 11379.6 which contains the higher penalties for the conduct prohibited by that section shall prevail, regardless of the order of chaptering.

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.

SEC. 19. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessary are:

In order to prevent the further manufacture of controlled substances and to clarify other provisions of law relating to controlled substances at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 4

An act making an appropriation for the payment of certain claims against the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 5, 1985. Filed with Secretary of State February 5, 1985]

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

SECTION 1. Although reimbursement of the claims paid hereby is not required by Section 6 of Article XIII B of the California Constitution, the sum of thirty-one million seven hundred seventy thousand six hundred fourteen dollars ($31,770,614) is appropriated from the General Fund to the Controller for the payment of claims for reimbursement of costs according to the following schedule:

(a) Twenty-two million four hundred seven thousand nine hundred nineteen dollars ($22,407,919) to the Controller for the payment of claims of school districts pursuant to Section 42243.6 of the Education Code.

(b) Three million five hundred seven thousand two hundred dollars ($3,507,200) to the Controller for the payment of a claim of the San Francisco Unified School District for costs incurred pursuant to Section 42243.6 of the Education Code and Provision 3 of Item 6100-114-001 of the Budget Act of 1983, Chapter 324 of the Statutes of 1983, for the 1982–83 and 1983–84 fiscal years.

(c) Five million two hundred nine thousand nine hundred thirty-nine dollars ($5,209,939) to the Controller for the payment of a claim of the Long Beach Unified School District for costs incurred pursuant to Chapter 1619 of the Statutes of 1982.

(d) Six hundred forty-five thousand five hundred fifty-six dollars ($645,556) to the Controller for the payment of a claim of the San Jose Unified School District for costs incurred pursuant to Chapter 1619 of the Statutes of 1982.

SEC. 2. This act is an urgency statute necessary for the 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 local government claims against the state and end hardship to local governments, it is necessary that this act take effect immediately.

CHAPTER 5

An act to amend Section 4205 of the Civil Code, relating to marriage, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 19, 1985. Filed with Secretary of State February 19, 1985.]

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

SECTION 1. Section 4205 of the Civil Code is amended to read:

4205. Marriage may be solemnized by any judge or retired judge, commissioner of civil marriages or retired commissioner of civil marriages, commissioner or retired commissioner, or assistant commissioner of a court of record or justice court in this state, by any judge or magistrate of the United States, or by any priest, minister, or rabbi of any religious denomination, of the age of 18 years or over.

A marriage may also be solemnized by a judge or magistrate who has resigned from office.

SEC. 2. Any marriage solemnized by a judge or magistrate of the United States in this state prior to the effective date of this act that is not otherwise invalid is hereby retroactively validated as of the date on which it was solemnized.

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

In order that the provisions of this act may be incorporated into law at the earliest possible time, thereby clarifying the validity of marriages solemnized by federal judges and magistrates, it is necessary that this act take effect immediately.

CHAPTER 6

An act to amend Section 193 of the Penal Code, and to amend Sections 13351 and 13361 of the Vehicle Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 21, 1985 Filed with Secretary of State February 21, 1985.]

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

SECTION 1. Section 193 of the Penal Code is amended to read:

193. (a) Voluntary manslaughter is punishable by imprisonment in the state prison for three, six, or eleven years.

(b) Involuntary manslaughter is punishable by imprisonment in

the state prison for two, three, or four years.

(c) Vehicular manslaughter is punishable as follows:

(1) A violation of paragraph (1) of subdivision (c) of Section 192 is punishable either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for two, four, or six years.

(2) A violation of paragraph (2) of subdivision (c) of Section 192 is punishable by imprisonment in the county jail for not more than one year.

(3) A violation of paragraph (3) of subdivision (c) of Section 192 is punishable by imprisonment in the state prison for four, six, or eight years.

(4) A violation of paragraph (4) of subdivision (c) of Section 192 is punishable either by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months or two or four years.

SEC. 2. Section 13351 of the Vehicle Code is amended to read:

13351. (a) The department shall immediately revoke the privilege of any person to drive a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of any of the following crimes or offenses:

(1) Manslaughter resulting from the operation of a motor vehicle except when convicted under paragraph (2) of subdivision (c) of Section 192 of the Penal Code.

(2) Upon conviction of three or more violations of Section 20001, 20002, 23103, or 23104 within a period of 12 months from the time of the first offense to the third or subsequent offense, or upon a combination of three or more convictions of violations within a like period.

(b) The department shall not renew the privilege revoked under subdivision (a) until the expiration of three years after the date of revocation and until the person whose privilege was revoked gives proof of ability to respond in damages as defined in Section 16430.

SEC. 3. Section 13361 of the Vehicle Code is amended to read:

13361. The department may suspend the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of any of the following crimes or offenses:

(a) Failure to stop in the event of an accident resulting in damage to property only, or otherwise failing to comply with the requirements of Section 20002.

(b) A second or subsequent conviction of reckless driving.

(c) Manslaughter resulting from the operation of a motor vehicle as provided in paragraph (2) of subdivision (c) of Section 192 of the Penal Code.

In any case under this section the department is authorized to require proof of ability to respond in damages as defined in Section 16430.

SEC. 4. The amendments to Section 193 of the Penal Code and

Sections 13351 and 13361 of the Vehicle Code made by this act do not constitute a change in, but are declaratory of, the existing law.

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 clarify the law as soon as possible, it is necessary that this bill take immediate effect.

CHAPTER 7

An act making an appropriation to the Department of Justice, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 28, 1985. Filed with Secretary of State February 28, 1985]

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

SECTION 1. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Department of Justice to pay the settlement in the action captioned Ronald E. Henderson v. State of California, No. 28260, brought in the Indio Branch of the Superior Court of the State of California for the County of Riverside.

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 relieve substantial hardship to the plaintiff by paying the settlement in the action described in this act as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 8

An act relating to school buildings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 28, 1985 Filed with Secretary of State February 28, 1985.]

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

SECTION 1. Notwithstanding any other provision of law, the governing board of the Yuba City Unified School District may continue to use, until one year from the date of receipt of the apportionment to fund the construction of a replacement building

from the State Allocation Board or December 31, 1986, whichever is earlier, the Albert Powell Continuation High School located at 21921 Live Oak Boulevard, Yuba City, California. During the period of use authorized by this section, the building shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code.

SEC. 2. The Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution due to the unique circumstances concerning the Yuba City Unified School District and the Albert Powell Continuation High School.

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

In order to continue school programs until the existing building is repaired or new buildings for school use are constructed, it is necessary for this act to take effect immediately.

CHAPTER 9

An act to add Section 17026.5 to the Business and Professions Code, relating to cigarettes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 3, 1985 Filed with Secretary of State March 4, 1985.]

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

SECTION 1. Section 17026.5 is added to the Business and Professions Code, to read:

17026.5. Notwithstanding the provisions of Section 17026, regular term discounts granted to distributors by manufacturers of cigarettes for cash payment customarily offered to distributors without discrimination may be used to reduce cost.

This section shall not apply to any anticipatory or special discount for cash that may be offered by the manufacturers of cigarettes.

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:

Since 1951, the major manufacturers selling cigarettes to distributors in the State of California have customarily required cash payment within a specified period of time without discrimination between distributors. They offer a 2 percent discount from the list price of cigarettes upon conformance with their payment requirements. Present law prohibits reduction of the price of

cigarettes by the customary discount granted for cash. The effect of the prohibition is to artificially maintain the price of cigarettes paid by California consumers at 2 percent above their cost to distributors. Numerous California cigarette distributors are now engaged in litigation regarding the legality of adjusting prices to reflect actual costs to distributors. In order to restore certainty to the pricing practices by cigarette distributors and to assure that California cigarette consumers are not penalized by higher retail pricing as a result of the prohibitions against recognition of cash discounts offered as a matter of custom and practice to all distributors, it is necessary that this act go into effect immediately.

CHAPTER 10

An act to add Section 86.1 to the Code of Civil Procedure, to amend Sections 1266, 1290, 1419, and 1424 of, to add Sections 1271, 1418.2, 1418.6, 1424.1, 1428.1, 1430.5, 1439.5, 1439.7, and 1439.8 to, to repeal and add Section 1427 of, and to repeal and add Article 2.5 (commencing with Section 1272) of Chapter 2 of Division 2 of, the Health and Safety Code, to amend Sections 9724 and 14019.3 of, and to add Sections 14022.3, 14110.6, 14110.7, 14124.7, and 14124.10 to, the Welfare and Institutions Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 6, 1985. Filed with Secretary of State March 6, 1985.]

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

SECTION 1. Section 86.1 is added to the Code of Civil Procedure, to read:

86.1. In addition to Section 86, each municipal and justice court has original jurisdiction of civil cases and proceedings in actions brought pursuant to the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) if civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. These actions may be transferred to the superior court for consolidation with any other citation enforcement action pending in that court, on the motion of either party.

SEC. 2. 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 be adjusted, commencing July 1, 1983, as proposed in the state department's 1983–84 fiscal year Health Facility License Fee Report to the Legislature. Commencing July 1, 1984, fees provided in this subdivision shall be adjusted annually, as directed by the Legislature in the annual Budget Act.

(b) The state department shall submit to the Legislature, on or before January 17 of each year, a report describing program costs within the Licensing and Certification Division, and a methodology for calculating fee levels in an amount sufficient to provide revenues equal to (1) the General Fund expenditures for the fiscal year ending on June 30 of that year, as specified in the proposed Governor's Annual Budget, less license fees which shall be collected in that fiscal year by the Licensing and Certification Program pursuant to sections other than this section, plus (2) the amount of federal funds budgeted for the fiscal year ending June 30 of that year for the Licensing and Certification Program, less federal funds received or credited, or anticipated to be received or credited, during that fiscal year for that purpose.

The report shall specifically identify federal funds received, but not previously budgeted, for the Licensing and Certification Program which are used to offset the amount of General Fund dollars to be recovered through license fees. The report shall also identify the purpose of federal funds received for any additional activities under the Licensing and Certification Program which are not used to offset the amount of General Fund dollars.

(c) 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.

(d) 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.

(e) Prior to the establishment of the annual fee, the state department shall prepare a staffing and systems analysis to ensure efficient and effective utilization of fees collected, proper allocation of departmental resources to licensing and certification activities, survey schedules, complaint investigations, enforcement and appeal activities, data collection and dissemination, surveyor training, and policy development.

The analysis under this subdivision shall include all of the following:

(1) The number of surveyors and administrative support personnel devoted to the licensing and certification of health care facilities.

(2) The percentage of time devoted to licensing and certification activities for the various types of health facilities.

(3) The number of facilities receiving full surveys and the frequency and number of followup visits.

(4) The number and timeliness of complaint investigations.

(5) Data on deficiencies and citations issued, and numbers of citation review conferences and arbitration hearings.

(6) Training courses provided for surveyors.

(7) Other applicable activities of the licensing and certification division.

The analysis shall also include recommendations for administrative changes to streamline and prioritize the survey process, complaint investigations, management information systems, word processing capabilities and effectiveness, consumer information system, and surveyor training.

The annual staffing and systems analysis shall be presented to the Health Care Advisory Committee and the Legislature prior to the establishment and adoption of the annual fee.

SEC. 3. Section 1271 is added to the Health and Safety Code, to read:

1271. (a) The Legislature finds and declares that uniform orientation and training are fundamental to ensuring a high level of competency of state personnel charged with enforcing state law regulating the licensure, certification, and inspection of long-term health care facilities.

(b) The state department shall develop, adopt, and implement comprehensive continuing orientation and in-service training programs. The comprehensive programs shall, at a minimum, include, but not be limited to, both of the following:

(1) An orientation program consisting of instruction in basic enforcement, inspection, investigation, and survey skills and techniques, patients' rights and safety, health facility, clinic, and agency licensing regulations, and supervised on-the-job training in long-term health care facilities.

(2) Ongoing in-service training to maintain continuing competency in existing and new inspection, investigation, and enforcement skills, patient care modalities, and to assure statewide uniform interpretation and application of long-term health care facility licensing

regulations.

(c) The state department shall establish and maintain a program review function responsible for inspecting, monitoring, evaluating, and providing consultative support and assistance to licensing and certification field offices. The program review shall ensure that the licensing and certification field offices implement, enforce, and interpret applicable state statutes, licensing regulations, certification standards, and departmental policies and procedures in an effective and uniform manner statewide.

SEC. 3.5. Article 2.5 (commencing with Section 1272) of Chapter 2 of Division 2 of the Health and Safety Code is repealed.

SEC. 4. Article 2.5 (commencing with Section 1272) is added to Chapter 2 of Division 2 of the Health and Safety Code, to read:

Article 2.5. Health Care Advisory Committee

1272. There is hereby created the Health Care Advisory Committee which shall assist, advise, and make written recommendations to the director regarding existing and proposed regulations, policies, and administrative practices affecting the delivery of services rendered by skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled, general acute care hospitals, acute psychiatric hospitals, special hospitals, psychiatric health facilities, chemical dependency recovery hospitals, home health agencies, and specialty clinics. For these purposes, the committee shall serve as consultants to the director.

The committee shall consist of the director, or the director's designee, who shall serve as chairman ex officio, and 12 members who shall be appointed by the Governor. Five members shall be public members representing consumers, one member shall be an ombudsman certified by the Department of Aging, and six members shall be representatives of the health care industry, consisting of two members representing general acute care hospitals, one member representing acute psychiatric hospitals, one member representing chemical dependency recovery hospitals, one member representing specialty clinics, and one member shall be a physician and surgeon currently licensed to practice in this state.

Committee members shall serve for four-year terms and until the appointment and qualification of their successors. Initial terms of the members of the committee shall expire in the following order: one public member, the certified ombudsman, and one industry member, on July 1, 1986; two public members, the physician and surgeon, and three industry members, on July 1, 1987; two public members and two industry members on July 1, 1988. The Governor shall designate the term for which each member is initially appointed. Vacancies shall be filled by the Governor for the unexpired term.

1273. Members of the committee shall serve without compensation, but shall receive the current per diem, subsistence, and travel reimbursement paid to state managers, supervisors, and confidential

employees for expenses incurred in the performance of their duties.

1274. The committee shall meet on call of the director.

SEC. 5. Section 1290 of the Health and Safety Code is amended to read:

1290. (a) Except as provided in subdivision (b) or (c), any person who violates this chapter or who willfully or repeatedly violates any rule or regulation adopted under this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed 180 days, or by both the fine and imprisonment.

(b) Any person who violates Section 1286 is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars ($100).

(c) Any person who willfully or repeatedly violates this chapter or Chapter 2.4 (commencing with Section 1417), excluding Sections 1425 and 1432, or any rule or regulation adopted under this chapter, relating to the operation or maintenance of a long-term health care facility as defined in Section 1418, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed two thousand five hundred dollars ($2,500) or by imprisonment in the county jail for a period not to exceed 180 days, or by both.

In determining the punishment to be imposed upon a conviction under this subdivision, the court shall consider all relevant facts, including, but not limited to, the following:

(1) Whether the violation exposed the patient to the risk of death or serious physical harm.

(2) Whether the violation had a direct or immediate relationship to the health, safety, or security of the patient.

(3) Evidence, if any, of willfulness.

(4) The number of repeated violations.

(5) The presence or absence of good faith efforts by the defendant to prevent the violation.

(d) For the purposes of this section, "willfully" or "willful" means the person doing an act or omitting to do an act intends the act or omission, and knows the relevant circumstances connected therewith.

SEC. 6. Section 1418.2 is added to the Health and Safety Code, to read:

1418.2. (a) Every licensed long-term health care facility shall establish and maintain a patient-oriented council. Each council shall include the patients or residents of the long-term health care facility, and may include family members of patients or residents, advocates, or ombudsman groups interested in patients of long-term health care facilities, and personnel of the long-term health care facility.

The council shall meet at regularly scheduled intervals, maintain written minutes, including names of council members present, and have minutes available for review by the state department upon its request.

Written council minutes may include recommendations from the council to the licensee of the long-term health care facility which shall be provided to the licensee. The licensee shall provide evidence of review and action on these recommendations to the state department upon its request.

(b) Any long-term health care facility which fails to establish a patient-oriented council as prescribed in subdivision (a) shall not be entitled to an abbreviated inspection for a period of one full inspection year, unless exempted from this requirement by the state department.

(c) The state department shall, by regulation, specify those circumstances under which a long-term health care facility may be exempted from the provisions of subdivisions (a) and (b).

SEC. 7. Section 1418.6 is added to the Health and Safety Code, to read:

1418.6. No long-term health care facility shall accept or retain any patient for whom it cannot provide adequate care.

SEC. 8. Section 1419 of the Health and Safety Code is amended to read:

1419. Any person may request an inspection of any long-term health care facility in accordance with this chapter by giving oral or written notice to the state department of an alleged violation of applicable requirements of state law. Any such notice may be in writing signed by the complainant setting forth with reasonable particularity the matters complained of. The complaint may also be made by telephone or personal visit. Any oral complaint shall be reduced to writing by the state department. The substance of the complaint shall be provided to the licensee no earlier than at the commencement of the inspection. Neither the substance of the complaint provided the licensee nor any copy of the complaint or record published, released, or otherwise made available to the licensee shall disclose the name of any individual complainant or other person mentioned in the complaint, except the name or names of any duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this chapter, unless the complainant specifically requests the release of the name or names or the matter results in a judicial proceeding.

SEC. 9. 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.

(a) In determining the amount of the civil penalty, all relevant facts shall be considered, including, but not limited to, the following:

(1) The probability and severity of the risk which the violation presents to the patient's mental and physical condition.

(2) The patient's medical condition.

(3) The patient's mental condition and his or her history of mental disability or disorder.

(4) The good faith efforts exercised by the facility to prevent the violation from occurring.

(5) The licensee's history of compliance with regulations.

(b) Class "AA" violations are violations which meet the criteria for a class "A" violation and which the state department determines to have been a direct proximate cause of death of a patient of a long-term health care facility. A class "AA" violation is subject to a civil penalty in the amount of not less than five thousand dollars ($5,000) and not exceeding twenty-five thousand dollars ($25,000) for each violation. In any action to enforce a citation issued under this subdivision, the state department shall prove all of the following:

(1) The violation was a direct proximate cause of death of a patient.

(2) The death resulted from an occurrence of a nature which the regulation was designed to prevent.

(3) The patient suffering the death was among the class of persons for whose protection the regulation was adopted.

If the state department meets this burden of proof, the licensee shall have the burden of proving that the licensee violating the regulation did what might reasonably be expected of a long-term health care facility licensee, acting under similar circumstances, to comply with the regulation. If the licensee sustains this burden, then the citation may be reduced.

For each class "AA" violation within a 12-month period which has become final, the state department shall consider the suspension or revocation of the facility's license in accordance with Section 1294. For a third or subsequent class "AA" violation in a facility within that 12-month period which has been sustained following a citation review conference, the state department shall commence action to suspend or revoke the facility's license in accordance with Section 1294.

(c) Class "A" violations are violations which the state department determines present either (1) imminent danger that death or serious harm to the patients of the long-term health care facility would result therefrom, or (2) substantial probability that death or serious physical harm to patients 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 a class "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 ten thousand dollars ($10,000) for each and every violation.

(d) 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 "AA" or "A" violations. Unless otherwise determined by

the state department to be a class "A" violation pursuant to this chapter and rules and regulations adopted pursuant thereto, any violation of a patient's rights as set forth in Sections 72527 and 73523 of Title 22 of the California Administrative Code, which is determined by the state department to cause or under circumstances likely to cause significant humiliation, indignity, anxiety, or other emotional trauma to a patient is a class "B" violation. A class "B" violation is subject to a civil penalty in an amount not less than one hundred dollars ($100) and not exceeding one thousand dollars ($1,000) 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 citation review conference, the director's designee may, utilizing the criteria set forth in subdivision (a), 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.

(e) Any willful material falsification or willful material omission in the health record for a patient of a long-term health care facility is a violation. "Willful material falsification," as used in this section, means any entry in the patient health care record pertaining to the administration of medication, or treatments ordered for the patient, or pertaining to services for the prevention or treatment of decubitus ulcers or contractures, or pertaining to tests and measurements of vital signs, or notations of input and output of fluids, which was made with the knowledge that the records falsely reflect the condition of the resident or the care or services provided.

"Willful material omission," as used in this section, means the willful failure to record any untoward event which has affected the health, safety, or security of the specific patient, and which was omitted with the knowledge that the records falsely reflect the condition of the resident or the care or services provided. A violation of this subdivision may result in a civil penalty not to exceed ten thousand dollars ($10,000), as specified in paragraphs (1) to (3), inclusive. However, in no case shall the civil penalty be trebled.

(1) The willful material falsification or willful material omission is subject to a civil penalty of not less than two thousand five hundred dollars ($2,500) or more than ten thousand dollars ($10,000) in instances where the health care record is relied upon by a health care professional to the detriment of a patient by affecting the administra-

tion of medications or treatments, the issuance of orders, or the development of plans of care. In all other cases, violations of this subdivision are subject to a civil penalty not exceeding two thousand five hundred dollars ($2,500).

(2) Where the penalty assessed is one thousand dollars ($1,000) or less, the violation shall be issued and enforced in the same manner as a class "B" violation. Where the assessed penalty is in excess of one thousand dollars ($1,000), the violation shall be issued and enforced in the same manner as a class "A" violation.

(3) Nothing in this subdivision shall preclude the state department from issuing a class "A" or class "B" citation for any violation which meets the requirements for that citation, regardless of whether the violation also constitutes a violation of this subdivision. However, no single act, omission, or occurrence may be cited both as a class "A" or class "B" violation and as a violation of this subdivision.

(f) The director shall prescribe procedures for the issuance of a notice of violation with respect to violations having only a minimal relationship to patient safety or health.

SEC. 10. Section 1424.1 is added to the Health and Safety Code, to read:

1424.1. (a) On and after the effective date of this section, no citation shall be issued or sustained under this chapter for a violation of any regulation discovered and recorded by a facility if all of the following conditions have been met:

(1) The facility maintains an ongoing quality assurance and patient care audit program, which includes maintenance of a quality assurance log which is made available to the state department at the commencement of each inspection and investigation. The facility shall retain this log for the current year and the preceding three years.

(2) The violation was not willful and resulted in no actual harm to any patient or guest.

(3) The violation was first discovered by the licensee and was promptly and accurately recorded in the quality assurance log prior to discovery by the state department.

(4) Promptly upon discovery, the facility implemented remedial action satisfactory to the state department to correct the violation and prevent a recurrence. If the state department determines that remedial action voluntarily undertaken by the facility is unsatisfactory, the state department shall allow the facility reasonable time to augment the remedial action before the condition shall be deemed to be a violation.

(b) Except as otherwise provided in this section, a quality assurance log which meets the criteria of this section shall not be discoverable or admissible in any action against the licensee. The quality assurance log shall be discoverable pursuant to a motion to produce under Section 2031 of the Code of Civil Procedure and admissible only for purposes of impeachment. However, the court, in a motion

pursuant to paragraph (1) of subdivision (b) of Section 2019 of the Code of Civil Procedure, or at trial or other proceeding, may limit access to those entries which would be admissible for impeachment purposes.

(c) The quality assurance log shall be made available upon request to any of the following:

(1) Full-time state employees of the Office of the State Long-Term Care Ombudsman.

(2) Ombudsman coordinators, as defined in subdivision (h) of Section 9701 of the Welfare and Institutions Code.

(3) Ombudsmen qualified by medical training as defined in subdivision (g) of Section 9701 of the Welfare and Institutions Code, with the approval of either the State Long-Term Care Ombudsman or ombudsman coordinator.

The licensee may make the quality assurance log available, in the licensee's discretion, to any representative of the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, without liability for the disclosure. Each representative of the Office of the State Long-Term Care Ombudsman who has been provided access to a facility's quality assurance log pursuant to this section shall maintain all disclosures in confidence.

SEC. 10.5. Section 1427 of the Health and Safety Code is repealed.

SEC. 11. Section 1427 is added to the Health and Safety Code, to read:

1427. (a) When the administration of medications, treatments, or other care is not recorded, as required by law, in the health care record for a patient of a long-term health care facility, it shall be presumed that the required medication, treatment, or care has not been provided.

(b) The presumption established by this section may be rebutted by a licensee only upon a showing of a preponderance of the evidence.

(c) This presumption applies to any action against any long-term health care facility which is filed by the state department pursuant to this chapter or Chapter 2 (commencing with Section 1250). In any other action against a long-term health care facilty, the court may apply the presumption when the interests of justice requires.

SEC. 12. Section 1428.1 is added to the Health and Safety Code, to read:

1428.1. (a) A licensee may, in lieu of contesting a citation pursuant to Section 1428, transmit to the state department the minimum amount specified by law, or 50 percent of the amount specified in the citation, whichever is greater, for each violation within five business days after the issuance of the citation.

(b) If a licensee requests a citation review conference, and if following the citation review conference the citation is sustained for the same class of violation for which it was issued but the penalty assessed is reduced to at least 30 percent less than the amount origi-

nally assessed, the licensee may pay the minimum amount specified by law, or 50 percent of the amount determined by the citation review conference, whichever is greater, for each violation within five business days after notice of the citation review conference determination.

SEC. 13. Section 1430.5 is added to the Health and Safety Code, to read:

1430.5. Upon the implementation of the automated information system pursuant to Section 1439.5, the state department shall once each quarter issue a public information release to the state's news media identifying all long-term health care facilities in the state which have had no class "AA," class "A," or class "B" violations in the past 12 months.

A facility's inclusion in this public information release shall not be admissible in litigation involving the facility which is unrelated to the 12-month period identified in that release.

SEC. 14. Section 1439.5 is added to the Health and Safety Code, to read:

1439.5. (a) The state department shall undertake the immediate development, implementation, and maintenance of an automated information system. The automated information system shall be developed to ensure both of the following:

(1) The most effective operation of this chapter and Chapter 2 (commencing with Section 1250), including, but not limited to, all of the following:

(A) Gathering data necessary to maximize enforcement and monitoring capabilities.

(B) Increasing accessibility of facility information.

(C) Identifying any trends of substandard care.

(D) Providing management information.

(2) The provision of information to the general public pursuant to subdivision (b).

The state department shall take all necessary action to obtain maximum federal funding assistance to develop, implement, and maintain an automated information system.

(b) The state department shall develop a consumer information system, pursuant to Section 1422.5, to provide information to the general public and long-term health care services consumers regarding long-term health care facilities in this state. The state department shall utilize, to the extent possible, the information provided by its automated information system. Prior to implementation, the consumer information system shall be presented to the Health Care Advisory Committee for its review and comments.

SEC. 15. Section 1439.7 is added to the Health and Safety Code, to read:

1439.7. Notwithstanding Section 14124.7 of the Welfare and Institutions Code, a long-term health care facility participating as a provider under the Medi-Cal program may transfer or seek to evict a resident, within 90 days of admission, if all of the following conditions

are met:

(a) The facility requests specific information regarding the assets and liabilities of a prospective private-pay resident prior to acceptance of the resident into the facility.

(b) The facility relies on the information provided pursuant to subdivision (a) in deciding to admit the resident.

(c) The facility promptly and diligently investigates the representation regarding the resident's assets and liabilities, and discovers that the resident's financial assets and liabilities are materially different than represented.

(d) The 90-day limit on transfer or eviction shall not apply if, in fact, the resident fraudulently misrepresented his or her assets and liabilities so that if the material facts were known at the time by the facility the resident would not have been admitted, and the facility could not have discovered the misrepresentation with the exercise of reasonable diligence.

(e) In no event, shall the facility take action to transfer or evict a resident under subdivision (d) unless the action is initiated within 18 months of the date of admission.

(f) A facility shall promptly notify the state department and the Office of the Long-Term Care Ombudsman as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, prior to taking action to transfer or evict a resident under this section.

SEC. 16. Section 1439.8 is added to the Health and Safety Code, to read:

1439.8. Every long-term health care facility shall reveal to applicants for admission, or their designated representatives, orally and in writing, and prior to admission, whether the facility participates in the Medi-Cal program, and the circumstances under which the law permits a Medi-Cal recipient to be transferred involuntarily.

SEC. 17. Section 9724 of the Welfare and Institutions Code is amended to read:

9724. Notwithstanding Section 56 of the Civil Code, in order for the office to carry out its responsibilities under this chapter, the office shall have access to the medical or personal records of a patient or resident of a long-term care facility which are retained by the facility, under the following conditions:

(a) If the patient or resident has the ability to write, access may only be obtained by the written consent of the patient or resident.

(b) If the patient or resident is unable to write, oral consent may be given in the presence of a third party as witness.

(c) If the patient or resident is under a California guardianship or conservatorship of the person, which provides the guardian or conservator with the authority to approve review of records, the office shall obtain the permission of the guardian or conservator for review of the records, unless any of the following apply:

(1) The existence of the guardianship or conservatorship is unknown to the office or the facility.

(2) The guardian or conservator cannot be reached within three

working days.

(3) The office has reason to believe the guardian or conservator is not acting in the best interests of the ward or the conservatee.

(d) If the patient or resident is unable to express written or oral consent and there is no guardian or conservator, or the notification of the guardian or conservator is not applicable for reasons set forth in subdivision (c), inspection of records may be made by full-time state employees of the office ombudsman coordinator, and by ombudsmen qualified by medical training and with the approval of the ombudsman coordinator or the State Ombudsman, when there is sufficient cause for the inspection. The licensee may, in his or her discretion, permit other representatives of the office to inspect records in the performance of their official duties. Copies may be reproduced by the office. The licensee and facility personnel who disclose records pursuant to this subdivision shall not be liable for the disclosure. If investigation of records is sought pursuant to this subdivision, the ombudsman shall, upon request, produce a statement signed by the ombudsman coordinator authorizing the ombudsman to review the records.

Facilities providing copies of records pursuant to this section may charge the actual copying cost for each page copied.

Upon request by the office, a long-term care facility shall provide to the office the name, address, and telephone number of the conservator, legal representative, or next of kin of any patient or resident.

SEC. 18. Section 14019.3 of the Welfare and Institutions Code is amended to read:

14019.3. A beneficiary or any person on behalf of the beneficiary who has paid for health care services otherwise covered by the Medi-Cal program received by the beneficiary shall be entitled to a return from the provider of any part of the payment which meets all of the following:

(a) Was rendered during any period prior to the receipt of his or her Medi-Cal card, for which the card authorizes payment under Section 14018 or 14019.

(b) Was reimbursed to the provider by the Medi-Cal program, following all audits and appeals to which the provider is entitled.

(c) Is not payable by a third party under contractual or other legal entitlement.

(d) Was not used to satisfy his or her paid or obligated liability for health care services or to establish eligibility.

To the extent permitted by federal law, whether or not a facility actually evicts a beneficiary, a beneficiary who may validly be evicted pursuant to Section 1439.7 of the Health and Safety Code, and who has received and paid for health care services otherwise covered by the Medi-Cal program shall not be entitled to the return from the provider of any part of the payment for which service was rendered during any period prior to the date upon which knowledge is acquired by the licensee of the application of the beneficiary for Medi-Cal or the date of application for Medi-Cal, whichever is later.

Upon presentation of the Medi-Cal card or other proof of eligibility, the provider shall submit a Medi-Cal claim for reimbursement, subject to the rules and regulations of the Medi-Cal program. Payment received from the state in accordance with Medi-Cal fee structures shall constitute payment in full. The provider shall return any and all payments made by the beneficiary, or any person on behalf of the beneficiary, for Medi-Cal program covered services upon receipt of Medi-Cal payment.

SEC. 19. Section 14022.3 is added to the Welfare and Institutions Code, to read:

14022.3. Long-term health care facilities shall reveal to applicants for admission, or their designated representatives, orally and in writing and prior to admission, whether the facility participates in the Medi-Cal program, and the circumstances under which the law permits a Medi-Cal recipient to be transferred involuntarily.

SEC. 20. Section 14110.6 is added to the Welfare and Institutions Code, to read:

14110.6. (a) The director shall adopt regulations, effective March 15, 1985, establishing payment rates for skilled nursing facilities, intermediate care facilities, and intermediate care facilities/developmentally disabled, as defined in Section 1250 of the Health and Safety Code, which are sufficient to provide an increase of one dollar and ninety-six cents ($1.96) per patient day for skilled nursing patients, one dollar and fifty-eight cents ($1.58) per patient day for intermediate care patients, and two dollars and twenty-nine cents ($2.29) per patient day for intermediate care facilities/developmentally disabled patients to be used for wage increases and benefits to all employees, except a licensed nursing home administrator or an administrator-in-training. However, if the entry level wages of the lowest paid nonadministrative employee of a skilled nursing facility, intermediate care facility or intermediate care facility/developmentally disabled exceeds six dollars ($6) per hour as of August 1, 1984, the funds received pursuant to regulations adopted pursuant to this section shall be used solely for labor costs directly related to providing patient care services in order to meet patients' needs including the uses of funds provided for under subdivision (d) of Section 14110.7. Any increase in wages and benefits required by this section shall be in addition to any future mandatory increases required by federal or state law. The rate shall provide funding for the portion of additional costs necessary to implement the wage and benefit increase required by this section attributable to Medi-Cal patients. The portion of those additional costs shall be the same as the ratio of Medi-Cal patients to the total number of patients in the facility.

(b) Each skilled nursing facility or intermediate care facility or intermediate care facility/developmentally disabled shall certify all of the following:

(1) All employees, except a licensed nursing home administrator or an administrator-in-training of a licensed nursing home, shall receive at least the prevailing federal or state minimum wage rate plus

the average hourly wage increase established pursuant to Chapter 19 of the Statutes of 1978, and this section.

(2) All employees of the facility, except a licensed administrator or administrator-in-training, shall be paid not less than the sum of the employee's actual rate of pay as of the effective date of the Medi-Cal rate increase provided for under Section 14110.7 plus the amount of the adjustment specified pursuant to this section, or not less than the applicable agreed to rate plus the amount of the adjustment, whichever is greater.

(3) Any wage increase required pursuant to Section 1268.5 of the Health and Safety Code, is in addition to any minimum wages provided in this section.

(4) For purposes of determining the amount of Medi-Cal funds to be distributed for employee wages and benefits, the total Medi-Cal patient days recorded by the facility in the month of December 1983 shall be multiplied by the amount per patient day specified in subdivision (a) plus the amount provided by Chapter 19 of the Statutes of 1978. The new wage levels shall be determined by dividing the Medi-Cal funds received by the nonovertime hours worked by covered employees in December 1983, plus any adjustments due to additional employees as specified in Section 14110.7 and adjustments to reflect employee benefit allowances.

(c) The director shall order the inspection of relevant payroll and personnel records of skilled nursing facilities, intermediate care facilities, and intermediate care facilities/developmentally disabled which are reimbursed for Medi-Cal patients under the rate of reimbursement established pursuant to subdivision (a) to ensure that the wage and benefit increases provided for have been implemented.

(d) Any facility which is paid under the rate provided for in subdivision (a) which the director finds has not made the wage and benefit increases provided for shall be liable for the amount of funds paid to the facility based upon the wage and benefit requirements provided for by this section but not distributed to employees for wages and benefits, plus a penalty equal to 10 percent of the funds not so distributed.

SEC. 21. Section 14110.7 is added to the Welfare and Institutions Code, to read:

14110.7. (a) It is the intent of the Legislature that funds expended to implement this section be utilized by long-term health care facilities participating in Medi-Cal to improve patient care in such facilities by increasing staffing levels to meet patients' needs and to comply with new regulatory requirements, as well as to ensure that those facilities providing care to Medi-Cal patients have the needed resources and staff to provide quality care to Medi-Cal supported patients.

(b) The director shall adopt regulations, effective March 15, 1985, establishing payment rates for skilled nursing facilities, intermediate care facilities, and intermediate care facilities/developmentally disabled, as defined in Section 1250 of the Health and Safety Code,

which are sufficient to provide an increase of one dollar and eighteen cents ($1.18) per patient day for skilled nursing patients, for intermediate care patients, and for intermediate care/developmentally disabled patients to increase staffing.

(c) The director shall adopt regulations increasing the minimum number of equivalent nursing hours per patient required in skilled nursing facilities to 3.0, in skilled nursing facilities with special treatment programs to 2.3, in intermediate care facilities to 1.1, and in intermediate care facilities/developmentally disabled to 2.7.

(d) Effective August 1, 1985, and annually thereafter, each long-term health care facility shall certify to the department that funds received pursuant to this section were expended solely for labor costs directly related to providing patient care services in order to meet patients' needs and to comply with new regulatory requirements. Each facility shall also certify that these funds were not expended to increase salaries or benefits for facility administrators or administrators-in-training. The requirements of this subdivision shall apply to a long-term health care facility even if the facility's staffing ratio equals or exceeds the applicable ratio provided for in subdivision (c).

The department shall, after consultation with the California Association of Health Facilities and the California Association of Homes for the Aging, develop a methodology to determine whether facilities have spent funds in accordance with their certification. Thirty days prior to adoption of the methodology, the department shall notify the Joint Legislative Budget Committee and the fiscal committees of each house. Whenever the department finds that a facility has not spent funds in accordance with these provisions, the facility shall be liable for the amount paid to the facility pursuant to this section which was not distributed according to this section.

SEC. 22. Section 14124.7 is added to the Welfare and Institutions Code, to read:

14124.7. No long-term health care facility participating as a provider under the Medi-Cal program shall transfer, or seek to evict, out of the facility any resident as a result of the resident changing his or her manner of purchasing the services from private payment or Medicare to Medi-Cal.

SEC. 23. Section 14124.10 is added to the Welfare and Institutions Code, to read:

14124.10. No licensed long-term health care facility participating as a provider under the Medi-Cal program shall discriminate against a Medi-Cal patient on the basis of the source of payment for the facility's services that are required to be provided to individuals entitled to services under the Medi-Cal program. Nothing in this section shall be construed to prohibit a facility from charging private-pay patients for services required to be provided to Medi-Cal patients or which are in addition to those required under the Medi-Cal program. This section applies to licensed long-term health care facilities, to the extent not prohibited by federal law.

SEC. 23.5. The State Department of Health Services shall con-

duct a skilled nursing facility expenditure study. The State Department of Health Services may request the cooperation of the Joint Legislative Audit Committee in conducting the study. For the "Salaries, Wages and Benefits" component of annual Medi-Cal rate increases for skilled nursing facilities, the study shall compare both the annual percentage increases provided in this component, including other rate adjustments, and the annual aggregate Medi-Cal rate increase to the percentage of average hourly wage and benefit increases paid to nonadministrative employees by employee classification for the period beginning with the 1979–80 fiscal year through the 1984–85 fiscal year. For the three other components of the annual Medi-Cal rate increase for skilled nursing facilities, the study shall compare both the annual percentage increases provided in each component and the annual aggregate Medi-Cal rate increase to the average percentage changes in actual expenditures by skilled nursing facilities for the major elements of each of the three components for the same time period as above. Skilled nursing facilities shall be required to make available all necessary and appropriate records, as determined by the State Department of Health Services. The study shall compare these factors on a statewide and regional basis consistent with Medi-Cal reimbursement categories. The study shall be submitted to the Governor and the Legislature on or before May 1, 1986.

SEC. 24. The sum of eight million eight hundred eighty-three thousand dollars ($8,883,000) is hereby appropriated from the General Fund to the Controller for allocation in accordance with the following schedule:

(a) To the Office of the State Long-Term Care Ombudsman for purposes of carrying out the provisions of Section 9726.1 of the Welfare and Institutions Code.....	$208,500
(b) To be allocated to the State Department of Health Services, upon approval of the Director of Finance, for costs incurred during the 1984–85 fiscal year in implementing Sections 14110.6 and 14110.7 of the Welfare and Institutions Code.....	$8,524,500
(c) To be allocated to the State Department of Health Services to conduct the skilled nursing facility expenditure study on or before May 1, 1986, pursuant to Section 23.5 of this act	$150,000

SEC. 24.5. If this bill and Senate Bill 53 are both chaptered and

become effective, this bill is chaptered after Senate Bill 53, and Senate Bill 53 makes an appropriation for any or all of the purposes described in Section 24 of this bill, then Section 24 of this bill shall not become operative.

SEC. 25. The State Department of Health Services shall in its budget proposals for fiscal year 1986–87 provide for the creation of 12 additional auditor positions and two additional support staff within the Audits and Investigations Division of the State Department of Health Services. The purpose for the creation of these auditor positions is to ensure compliance with Sections 14110.6 and 14110.7 of the Welfare and Institutions Code, and to evaluate cost reports and payroll records submitted by long-term health care facilities pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 26. 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. 27. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 28. 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. 29. Except as otherwise provided in Section 24.5 of this act, Sections 1 to 28, inclusive, of this act shall not become operative unless Senate Bill 53 of the 1985–86 Regular Session becomes effective and operative, and in that case Sections 1 to 28, inclusive, of this act shall become operative at the same time as Senate Bill 53 or this act, whichever is later.

SEC. 30. 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 fundamental statutory revisions affecting the quality of care rendered in California long-term health care facilities take effect at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 11

An act to add Section 86.1 to the Code of Civil Procedure, to amend Sections 1266, 1290, 1419, and 1424 of, to add Sections 1271, 1418.2, 1418.6, 1424.1, 1428.1, 1430.5, 1439.5, 1439.7, and 1439.8 to, to repeal and add Section 1427 of, and to repeal and add Article 2.5 (commencing with Section 1272) of Chapter 2 of Division 2 of, the Health and Safety Code, to amend Sections 9724 and 14019.3 of, and to add Sections 14022.3, 14110.6, 14110.7, 14124.7, and 14124.10 to, the Welfare and Institutions Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 6, 1985. Filed with Secretary of State March 6, 1985]

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

SECTION 1. Section 86.1 is added to the Code of Civil Procedure, to read:

86.1. In addition to Section 86, each municipal and justice court has original jurisdiction of civil cases and proceedings in actions brought pursuant to the Long-Term Care, Health, Safety, and Security Act of 1973 (Chapter 2.4 (commencing with Section 1417) of Division 2 of the Health and Safety Code) if civil penalties are not sought or amount to fifteen thousand dollars ($15,000) or less. These actions may be transferred to the superior court for consolidation with any other citation enforcement action pending in that court, on the motion of either party.

SEC. 2. 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 be adjusted, commencing July 1, 1983, as proposed in the state department's 1983–84 fiscal year Health Facility License Fee Report to the Legislature. Commencing July 1, 1984, fees provided in this subdivision shall be adjusted annually, as directed by the Legislature in the annual Budget Act.

(b) The state department shall submit to the Legislature, on or before January 17 of each year, a report describing program costs within the Licensing and Certification Division, and a methodology for calculating fee levels in an amount sufficient to provide revenues equal to (1) the General Fund expenditures for the fiscal year ending on June 30 of that year, as specified in the proposed Governor's Annual Budget, less license fees which shall be collected in that fiscal year by the Licensing and Certification Program pursuant to sections other than this section, plus (2) the amount of federal funds budgeted for the fiscal year ending June 30 of that year for the Licensing and Certification Program, less federal funds received or credited, or anticipated to be received or credited, during that fiscal year for that purpose.

The report shall specifically identify federal funds received, but not previously budgeted, for the Licensing and Certification Program which are used to offset the amount of General Fund dollars to be recovered through license fees. The report shall also identify the purpose of federal funds received for any additional activities under the Licensing and Certification Program which are not used to offset the amount of General Fund dollars.

(c) 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.

(d) 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.

(e) Prior to the establishment of the annual fee, the state department shall prepare a staffing and systems analysis to ensure efficient and effective utilization of fees collected, proper allocation of departmental resources to licensing and certification activities, survey schedules, complaint investigations, enforcement and appeal activities, data collection and dissemination, surveyor training, and policy development.

The analysis under this subdivision shall include all of the following:

(1) The number of surveyors and administrative support personnel devoted to the licensing and certification of health care facilities.

(2) The percentage of time devoted to licensing and certification activities for the various types of health facilities.

(3) The number of facilities receiving full surveys and the fre-

quency and number of followup visits.

(4) The number and timeliness of complaint investigations.

(5) Data on deficiencies and citations issued, and numbers of citation review conferences and arbitration hearings.

(6) Training courses provided for surveyors.

(7) Other applicable activities of the licensing and certification division.

The analysis shall also include recommendations for administrative changes to streamline and prioritize the survey process, complaint investigations, management information systems, word processing capabilities and effectiveness, consumer information system, and surveyor training.

The annual staffing and systems analysis shall be presented to the Health Care Advisory Committee and the Legislature prior to the establishment and adoption of the annual fee.

SEC. 3. Section 1271 is added to the Health and Safety Code, to read:

1271. (a) The Legislature finds and declares that uniform orientation and training are fundamental to ensuring a high level of competency of state personnel charged with enforcing state law regulating the licensure, certification, and inspection of long-term health care facilities.

(b) The state department shall develop, adopt, and implement comprehensive continuing orientation and in-service training programs. The comprehensive programs shall, at a minimum, include, but not be limited to, both of the following:

(1) An orientation program consisting of instruction in basic enforcement, inspection, investigation, and survey skills and techniques, patients' rights and safety, health facility, clinic, and agency licensing regulations, and supervised on-the-job training in long-term health care facilities.

(2) Ongoing in-service training to maintain continuing competency in existing and new inspection, investigation, and enforcement skills, patient care modalities, and to assure statewide uniform interpretation and application of long-term health care facility licensing regulations.

(c) The state department shall establish and maintain a program review function responsible for inspecting, monitoring, evaluating, and providing consultative support and assistance to licensing and certification field offices. The program review shall ensure that the licensing and certification field offices implement, enforce, and interpret applicable state statutes, licensing regulations, certification standards, and departmental policies and procedures in an effective and uniform manner statewide.

SEC. 3.5. Article 2.5 (commencing with Section 1272) of Chapter 2 of Division 2 of the Health and Safety Code is repealed.

SEC. 4. Article 2.5 (commencing with Section 1272) is added to Chapter 2 of Division 2 of the Health and Safety Code, to read:

Article 2.5. Health Care Advisory Committee

1272. There is hereby created the Health Care Advisory Committee which shall assist, advise, and make written recommendations to the director regarding existing and proposed regulations, policies, and administrative practices affecting the delivery of services rendered by skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled, general acute care hospitals, acute psychiatric hospitals, special hospitals, psychiatric health facilities, chemical dependency recovery hospitals, home health agencies, and specialty clinics. For these purposes, the committee shall serve as consultants to the director.

The committee shall consist of the director, or the director's designee, who shall serve as chairman ex officio, and 12 members who shall be appointed by the Governor. Five members shall be public members representing consumers, one member shall be an ombudsman certified by the Department of Aging, and six members shall be representatives of the health care industry, consisting of two members representing general acute care hospitals, one member representing acute psychiatric hospitals, one member representing chemical dependency recovery hospitals, one member representing specialty clinics, and one member shall be a physician and surgeon currently licensed to practice in this state.

Committee members shall serve for four-year terms and until the appointment and qualification of their successors. Initial terms of the members of the committee shall expire in the following order: one public member, the certified ombudsman, and one industry member, on July 1, 1986; two public members, the physician and surgeon, and three industry members, on July 1, 1987; two public members and two industry members on July 1, 1988. The Governor shall designate the term for which each member is initially appointed. Vacancies shall be filled by the Governor for the unexpired term.

1273. Members of the committee shall serve without compensation, but shall receive the current per diem, subsistence, and travel reimbursement paid to state managers, supervisors, and confidential employees for expenses incurred in the performance of their duties.

1274. The committee shall meet on call of the director.

SEC. 5. Section 1290 of the Health and Safety Code is amended to read:

1290. (a) Except as provided in subdivision (b) or (c), any person who violates this chapter or who willfully or repeatedly violates any rule or regulation adopted under this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed 180 days, or by both the fine and imprisonment.

(b) Any person who violates Section 1286 is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars ($100).

(c) Any person who willfully or repeatedly violates this chapter or Chapter 2.4 (commencing with Section 1417), excluding Sections 1425 and 1432, or any rule or regulation adopted under this chapter, relating to the operation or maintenance of a long-term health care facility as defined in Section 1418, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed two thousand five hundred dollars ($2,500) or by imprisonment in the county jail for a period not to exceed 180 days, or by both.

In determining the punishment to be imposed upon a conviction under this subdivision, the court shall consider all relevant facts, including, but not limited to, the following:

(1) Whether the violation exposed the patient to the risk of death or serious physical harm.

(2) Whether the violation had a direct or immediate relationship to the health, safety, or security of the patient.

(3) Evidence, if any, of willfulness.

(4) The number of repeated violations.

(5) The presence or absence of good faith efforts by the defendant to prevent the violation.

(d) For the purposes of this section, "willfully" or "willful" means the person doing an act or omitting to do an act intends the act or omission, and knows the relevant circumstances connected therewith.

SEC. 6. Section 1418.2 is added to the Health and Safety Code, to read:

1418.2. (a) Every licensed long-term health care facility shall establish and maintain a patient-oriented council. Each council shall include the patients or residents of the long-term health care facility, and may include family members of patients or residents, advocates, or ombudsman groups interested in patients of long-term health care facilities, and personnel of the long-term health care facility.

The council shall meet at regularly scheduled intervals, maintain written minutes, including names of council members present, and have minutes available for review by the state department upon its request.

Written council minutes may include recommendations from the council to the licensee of the long-term health care facility which shall be provided to the licensee. The licensee shall provide evidence of review and action on these recommendations to the state department upon its request.

(b) Any long-term health care facility which fails to establish a patient-oriented council as prescribed in subdivision (a) shall not be entitled to an abbreviated inspection for a period of one full inspection year, unless exempted from this requirement by the state department.

(c) The state department shall, by regulation, specify those circumstances under which a long-term health care facility may be exempted from the provisions of subdivisions (a) and (b).

SEC. 7. Section 1418.6 is added to the Health and Safety Code, to

read:

1418.6. No long-term health care facility shall accept or retain any patient for whom it cannot provide adequate care.

SEC. 8. Section 1419 of the Health and Safety Code is amended to read:

1419. Any person may request an inspection of any long-term health care facility in accordance with this chapter by giving oral or written notice to the state department of an alleged violation of applicable requirements of state law. Any such notice may be in writing signed by the complainant setting forth with reasonable particularity the matters complained of. The complaint may also be made by telephone or personal visit. Any oral complaint shall be reduced to writing by the state department. The substance of the complaint shall be provided to the licensee no earlier than at the commencement of the inspection. Neither the substance of the complaint provided the licensee nor any copy of the complaint or record published, released, or otherwise made available to the licensee shall disclose the name of any individual complainant or other person mentioned in the complaint, except the name or names of any duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this chapter, unless the complainant specifically requests the release of the name or names or the matter results in a judicial proceeding.

SEC. 9. 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.

(a) In determining the amount of the civil penalty, all relevant facts shall be considered, including, but not limited to, the following:

(1) The probability and severity of the risk which the violation presents to the patient's mental and physical condition.

(2) The patient's medical condition.

(3) The patient's mental condition and his or her history of mental disability or disorder.

(4) The good faith efforts exercised by the facility to prevent the violation from occurring.

(5) The licensee's history of compliance with regulations.

(b) Class "AA" violations are violations which meet the criteria for a class "A" violation and which the state department determines to have been a direct proximate cause of death of a patient of a long-term health care facility. A class "AA" violation is subject to a civil penalty in the amount of not less than five thousand dollars ($5,000) and not exceeding twenty-five thousand dollars ($25,000) for each violation. In any action to enforce a citation issued under this subdivision, the state department shall prove all of the following:

(1) The violation was a direct proximate cause of death of a patient.

(2) The death resulted from an occurrence of a nature which the

regulation was designed to prevent.

(3) The patient suffering the death was among the class of persons for whose protection the regulation was adopted.

If the state department meets this burden of proof, the licensee shall have the burden of proving that the licensee violating the regulation did what might reasonably be expected of a long-term health care facility licensee, acting under similar circumstances, to comply with the regulation. If the licensee sustains this burden, then the citation may be reduced.

For each class "AA" violation within a 12-month period which has become final, the state department shall consider the suspension or revocation of the facility's license in accordance with Section 1294. For a third or subsequent class "AA" violation in a facility within that 12-month period which has been sustained following a citation review conference, the state department shall commence action to suspend or revoke the facility's license in accordance with Section 1294.

(c) Class "A" violations are violations which the state department determines present either (1) imminent danger that death or serious harm to the patients of the long-term health care facility would result therefrom, or (2) substantial probability that death or serious physical harm to patients 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 a class "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 ten thousand dollars ($10,000) for each and every violation.

(d) 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 "AA" or "A" violations. Unless otherwise determined by the state department to be a class "A" violation pursuant to this chapter and rules and regulations adopted pursuant thereto, any violation of a patient's rights as set forth in Sections 72527 and 73523 of Title 22 of the California Administrative Code, which is determined by the state department to cause or under circumstances likely to cause significant humiliation, indignity, anxiety, or other emotional trauma to a patient is a class "B" violation. A class "B" violation is subject to a civil penalty in an amount not less than one hundred dollars ($100) and not exceeding one thousand dollars ($1,000) 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 citation review conference, the director's designee may, utilizing the criteria set forth in subdivision (a), 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.

(e) Any willful material falsification or willful material omission in the health record for a patient of a long-term health care facility is a violation. "Willful material falsification," as used in this section, means any entry in the patient health care record pertaining to the administration of medication, or treatments ordered for the patient, or pertaining to services for the prevention or treatment of decubitus ulcers or contractures, or pertaining to tests and measurements of vital signs, or notations of input and output of fluids, which was made with the knowledge that the records falsely reflect the condition of the resident or the care or services provided.

"Willful material omission," as used in this section, means the willful failure to record any untoward event which has affected the health, safety, or security of the specific patient, and which was omitted with the knowledge that the records falsely reflect the condition of the resident or the care or services provided. A violation of this subdivision may result in a civil penalty not to exceed ten thousand dollars ($10,000), as specified in paragraphs (1) to (3), inclusive. However, in no case shall the civil penalty be trebled.

(1) The willful material falsification or willful material omission is subject to a civil penalty of not less than two thousand five hundred dollars ($2,500) or more than ten thousand dollars ($10,000) in instances where the health care record is relied upon by a health care professional to the detriment of a patient by affecting the administration of medications or treatments, the issuance of orders, or the development of plans of care. In all other cases, violations of this subdivision are subject to a civil penalty not exceeding two thousand five hundred dollars ($2,500).

(2) Where the penalty assessed is one thousand dollars ($1,000) or less, the violation shall be issued and enforced in the same manner as a class "B" violation. Where the assessed penalty is in excess of one thousand dollars ($1,000), the violation shall be issued and enforced in the same manner as a class "A" violation.

(3) Nothing in this subdivision shall preclude the state department from issuing a class "A" or class "B" citation for any violation which meets the requirements for that citation, regardless of whether the violation also constitutes a violation of this subdivision. However, no single act, omission, or occurrence may be cited both

as a class "A" or class "B" violation and as a violation of this subdivision.

(f) The director shall prescribe procedures for the issuance of a notice of violation with respect to violations having only a minimal relationship to patient safety or health.

SEC. 10. Section 1424.1 is added to the Health and Safety Code, to read:

1424.1. (a) On and after the effective date of this section, no citation shall be issued or sustained under this chapter for a violation of any regulation discovered and recorded by a facility if all of the following conditions have been met:

(1) The facility maintains an ongoing quality assurance and patient care audit program, which includes maintenance of a quality assurance log which is made available to the state department at the commencement of each inspection and investigation. The facility shall retain this log for the current year and the preceding three years.

(2) The violation was not willful and resulted in no actual harm to any patient or guest.

(3) The violation was first discovered by the licensee and was promptly and accurately recorded in the quality assurance log prior to discovery by the state department.

(4) Promptly upon discovery, the facility implemented remedial action satisfactory to the state department to correct the violation and prevent a recurrence. If the state department determines that remedial action voluntarily undertaken by the facility is unsatisfactory, the state department shall allow the facility reasonable time to augment the remedial action before the condition shall be deemed to be a violation.

(b) Except as otherwise provided in this section, a quality assurance log which meets the criteria of this section shall not be discoverable or admissible in any action against the licensee. The quality assurance log shall be discoverable pursuant to a motion to produce under Section 2031 of the Code of Civil Procedure and admissible only for purposes of impeachment. However, the court, in a motion pursuant to paragraph (1) of subdivision (b) of Section 2019 of the Code of Civil Procedure, or at trial or other proceeding, may limit access to those entries which would be admissible for impeachment purposes.

(c) The quality assurance log shall be made available upon request to any of the following:

(1) Full-time state employees of the Office of the State Long-Term Care Ombudsman.

(2) Ombudsman coordinators, as defined in subdivision (h) of Section 9701 of the Welfare and Institutions Code.

(3) Ombudsmen qualified by medical training as defined in subdivision (g) of Section 9701 of the Welfare and Institutions Code, with the approval of either the State Long-Term Care Ombudsman or ombudsman coordinator.

The licensee may make the quality assurance log available, in the licensee's discretion, to any representative of the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, without liability for the disclosure. Each representative of the Office of the State Long-Term Care Ombudsman who has been provided access to a facility's quality assurance log pursuant to this section shall maintain all disclosures in confidence.

SEC. 10.5. Section 1427 of the Health and Safety Code is repealed.

SEC. 11. Section 1427 is added to the Health and Safety Code, to read:

1427. (a) When the administration of medications, treatments, or other care is not recorded, as required by law, in the health care record for a patient of a long-term health care facility, it shall be presumed that the required medication, treatment, or care has not been provided.

(b) The presumption established by this section may be rebutted by a licensee only upon a showing of a preponderance of the evidence.

(c) This presumption applies to any action against any long-term health care facility which is filed by the state department pursuant to this chapter or Chapter 2 (commencing with Section 1250). In any other action against a long-term health care facility, the court may apply the presumption when the interests of justice requires.

SEC. 12. Section 1428.1 is added to the Health and Safety Code, to read:

1428.1. (a) A licensee may, in lieu of contesting a citation pursuant to Section 1428, transmit to the state department the minimum amount specified by law, or 50 percent of the amount specified in the citation, whichever is greater, for each violation within five business days after the issuance of the citation.

(b) If a licensee requests a citation review conference, and if following the citation review conference the citation is sustained for the same class of violation for which it was issued but the penalty assessed is reduced to at least 30 percent less than the amount originally assessed, the licensee may pay the minimum amount specified by law, or 50 percent of the amount determined by the citation review conference, whichever is greater, for each violation within five business days after notice of the citation review conference determination.

SEC. 13. Section 1430.5 is added to the Health and Safety Code, to read:

1430.5. Upon the implementation of the automated information system pursuant to Section 1439.5, the state department shall once each quarter issue a public information release to the state's news media identifying all long-term health care facilities in the state which have had no class "AA," class "A," or class "B" violations in the past 12 months.

A facility's inclusion in this public information release shall not be

admissible in litigation involving the facility which is unrelated to the 12-month period identified in that release.

SEC. 14. Section 1439.5 is added to the Health and Safety Code, to read:

1439.5. (a) The state department shall undertake the immediate development, implementation, and maintenance of an automated information system. The automated information system shall be developed to ensure both of the following:

(1) The most effective operation of this chapter and Chapter 2 (commencing with Section 1250), including, but not limited to, all of the following:

(A) Gathering data necessary to maximize enforcement and monitoring capabilities.

(B) Increasing accessibility of facility information.

(C) Identifying any trends of substandard care.

(D) Providing management information.

(2) The provision of information to the general public pursuant to subdivision (b).

The state department shall take all necessary action to obtain maximum federal funding assistance to develop, implement, and maintain an automated information system.

(b) The state department shall develop a consumer information system, pursuant to Section 1422.5, to provide information to the general public and long-term health care services consumers regarding long-term health care facilities in this state. The state department shall utilize, to the extent possible, the information provided by its automated information system. Prior to implementation, the consumer information system shall be presented to the Health Care Advisory Committee for its review and comments.

SEC. 15. Section 1439.7 is added to the Health and Safety Code, to read:

1439.7. Notwithstanding Section 14124.7 of the Welfare and Institutions Code, a long-term health care facility participating as a provider under the Medi-Cal program may transfer or seek to evict a resident, within 90 days of admission, if all of the following conditions are met:

(a) The facility requests specific information regarding the assets and liabilities of a prospective private-pay resident prior to acceptance of the resident into the facility.

(b) The facility relies on the information provided pursuant to subdivision (a) in deciding to admit the resident.

(c) The facility promptly and diligently investigates the representation regarding the resident's assets and liabilities, and discovers that the resident's financial assets and liabilities are materially different than represented.

(d) The 90-day limit on transfer or eviction shall not apply if, in fact, the resident fraudulently misrepresented his or her assets and liabilities so that if the material facts were known at the time by the facility the resident would not have been admitted, and the facility

could not have discovered the misrepresentation with the exercise of reasonable diligence.

(e) In no event, shall the facility take action to transfer or evict a resident under subdivision (d) unless the action is initiated within 18 months of the date of admission.

(f) A facility shall promptly notify the state department and the Office of the Long-Term Care Ombudsman as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, prior to taking action to transfer or evict a resident under this section.

SEC. 16. Section 1439.8 is added to the Health and Safety Code, to read:

1439.8. Every long-term health care facility shall reveal to applicants for admission, or their designated representatives, orally and in writing, and prior to admission, whether the facility participates in the Medi-Cal program, and the circumstances under which the law permits a Medi-Cal recipient to be transferred involuntarily.

SEC. 17. Section 9724 of the Welfare and Institutions Code is amended to read:

9724. Notwithstanding Section 56 of the Civil Code, in order for the office to carry out its responsibilities under this chapter, the office shall have access to the medical or personal records of a patient or resident of a long-term care facility which are retained by the facility, under the following conditions:

(a) If the patient or resident has the ability to write, access may only be obtained by the written consent of the patient or resident.

(b) If the patient or resident is unable to write, oral consent may be given in the presence of a third party as witness.

(c) If the patient or resident is under a California guardianship or conservatorship of the person, which provides the guardian or conservator with the authority to approve review of records, the office shall obtain the permission of the guardian or conservator for review of the records, unless any of the following apply:

(1) The existence of the guardianship or conservatorship is unknown to the office or the facility.

(2) The guardian or conservator cannot be reached within three working days.

(3) The office has reason to believe the guardian or conservator is not acting in the best interests of the ward or the conservatee.

(d) If the patient or resident is unable to express written or oral consent and there is no guardian or conservator, or the notification of the guardian or conservator is not applicable for reasons set forth in subdivision (c), inspection of records may be made by full-time state employees of the office ombudsman coordinator, and by ombudsmen qualified by medical training and with the approval of the ombudsman coordinator or the State Ombudsman, when there is sufficient cause for the inspection. The licensee may, in his or her discretion, permit other representatives of the office to inspect records in the performance of their official duties. Copies may be reproduced by the office. The licensee and facility personnel who

disclose records pursuant to this subdivision shall not be liable for the disclosure. If investigation of records is sought pursuant to this subdivision, the ombudsman shall, upon request, produce a statement signed by the ombudsman coordinator authorizing the ombudsman to review the records.

Facilities providing copies of records pursuant to this section may charge the actual copying cost for each page copied.

Upon request by the office, a long-term care facility shall provide to the office the name, address, and telephone number of the conservator, legal representative, or next-of-kin of any patient or resident.

SEC. 18. Section 14019.3 of the Welfare and Institutions Code is amended to read:

14019.3. A beneficiary or any person on behalf of the beneficiary who has paid for health care services otherwise covered by the Medi-Cal program received by the beneficiary shall be entitled to a return from the provider of any part of the payment which meets all of the following:

(a) Was rendered during any period prior to the receipt of his or her Medi-Cal card, for which the card authorizes payment under Section 14018 or 14019.

(b) Was reimbursed to the provider by the Medi-Cal program, following all audits and appeals to which the provider is entitled.

(c) Is not payable by a third party under contractual or other legal entitlement.

(d) Was not used to satisfy his or her paid or obligated liability for health care services or to establish eligibility.

To the extent permitted by federal law, whether or not a facility actually evicts a beneficiary, a beneficiary who may validly be evicted pursuant to Section 1439.7 of the Health and Safety Code, and who has received and paid for health care services otherwise covered by the Medi-Cal program shall not be entitled to the return from the provider of any part of the payment for which service was rendered during any period prior to the date upon which knowledge is acquired by the licensee of the application of the beneficiary for Medi-Cal or the date of application for Medi-Cal, whichever is later.

Upon presentation of the Medi-Cal card or other proof of eligibility, the provider shall submit a Medi-Cal claim for reimbursement, subject to the rules and regulations of the Medi-Cal program. Payment received from the state in accordance with Medi-Cal fee structures shall constitute payment in full. The provider shall return any and all payments made by the beneficiary, or any person on behalf of the beneficiary, for Medi-Cal program covered services upon receipt of Medi-Cal payment.

SEC. 19. Section 14022.3 is added to the Welfare and Institutions Code, to read:

14022.3. Long-term health care facilities shall reveal to applicants for admission, or their designated representatives, orally and in writing and prior to admission, whether the facility participates in the Medi-Cal program, and the circumstances under which the law per-

mits a Medi-Cal recipient to be transferred involuntarily.

SEC. 20. Section 14110.6 is added to the Welfare and Institutions Code, to read:

14110.6. (a) The director shall adopt regulations, effective March 15, 1985, establishing payment rates for skilled nursing facilities, intermediate care facilities, and intermediate care facilities/developmentally disabled, as defined in Section 1250 of the Health and Safety Code, which are sufficient to provide an increase of one dollar and ninety-six cents ($1.96) per patient day for skilled nursing patients, one dollar and fifty-eight cents ($1.58) per patient day for intermediate care patients, and two dollars and twenty-nine cents ($2.29) per patient day for intermediate care facilities/developmentally disabled patients to be used for wage increases and benefits to all employees, except a licensed nursing home administrator or an administrator-in-training. However, if the entry level wages of the lowest paid nonadministrative employee of a skilled nursing facility, intermediate care facility or intermediate care facility/developmentally disabled exceeds six dollars ($6) per hour as of August 1, 1984, the funds received pursuant to regulations adopted pursuant to this section shall be used solely for labor costs directly related to providing patient care services in order to meet patients' needs including the uses of funds provided for under subdivision (d) of Section 14110.7. Any increase in wages and benefits required by this section shall be in addition to any future mandatory increases required by federal or state law. The rate shall provide funding for the portion of additional costs necessary to implement the wage and benefit increase required by this section attributable to Medi-Cal patients. The portion of those additional costs shall be the same as the ratio of Medi-Cal patients to the total number of patients in the facility.

(b) Each skilled nursing facility or intermediate care facility or intermediate care facility/developmentally disabled shall certify all of the following:

(1) All employees, except a licensed nursing home administrator or an administrator-in-training of a licensed nursing home, shall receive at least the prevailing federal or state minimum wage rate plus the average hourly wage increase established pursuant to Chapter 19 of the Statutes of 1978, and this section.

(2) All employees of the facility, except a licensed administrator or administrator-in-training, shall be paid not less than the sum of the employee's actual rate of pay as of the effective date of the Medi-Cal rate increase provided for under Section 14110.7 plus the amount of the adjustment specified pursuant to this section, or not less than the applicable agreed to rate plus the amount of the adjustment, whichever is greater.

(3) Any wage increase required pursuant to Section 1268.5 of the Health and Safety Code, is in addition to any minimum wages provided in this section.

(4) For purposes of determining the amount of Medi-Cal funds to be distributed for employee wages and benefits, the total Medi-Cal

patient days recorded by the facility in the month of December 1983 shall be multiplied by the amount per patient day specified in subdivision (a) plus the amount provided by Chapter 19 of the Statutes of 1978. The new wage levels shall be determined by dividing the Medi-Cal funds received by the nonovertime hours worked by covered employees in December 1983, plus any adjustments due to additional employees as specified in Section 14110.7 and adjustments to reflect employee benefit allowances.

(c) The director shall order the inspection of relevant payroll and personnel records of skilled nursing facilities, intermediate care facilities, and intermediate care facilities/developmentally disabled which are reimbursed for Medi-Cal patients under the rate of reimbursement established pursuant to subdivision (a) to ensure that the wage and benefit increases provided for have been implemented.

(d) Any facility which is paid under the rate provided for in subdivision (a) which the director finds has not made the wage and benefit increases provided for shall be liable for the amount of funds paid to the facility based upon the wage and benefit requirements provided for by this section but not distributed to employees for wages and benefits, plus a penalty equal to 10 percent of the funds not so distributed.

SEC. 21. Section 14110.7 is added to the Welfare and Institutions Code, to read:

14110.7. (a) It is the intent of the Legislature that funds expended to implement this section be utilized by long-term health care facilities participating in Medi-Cal to improve patient care in such facilities by increasing staffing levels to meet patients' needs and to comply with new regulatory requirements, as well as to ensure that those facilities providing care to Medi-Cal patients have the needed resources and staff to provide quality care to Medi-Cal supported patients.

(b) The director shall adopt regulations, effective March 15, 1985, establishing payment rates for skilled nursing facilities, intermediate care facilities, and intermediate care facilities/developmentally disabled, as defined in Section 1250 of the Health and Safety Code, which are sufficient to provide an increase of one dollar and eighteen cents ($1.18) per patient day for skilled nursing patients, for intermediate care patients, and for intermediate care/developmentally disabled patients to increase staffing.

(c) The director shall adopt regulations increasing the minimum number of equivalent nursing hours per patient required in skilled nursing facilities to 3.0, in skilled nursing facilities with special treatment programs to 2.3, in intermediate care facilities to 1.1, and in intermediate care facilities/developmentally disabled to 2.7.

(d) Effective August 1, 1985, and annually thereafter, each long-term health care facility shall certify to the department that funds received pursuant to this section were expended solely for labor costs directly related to providing patient care services in order to meet patients' needs and to comply with new regulatory requirements.

Each facility shall also certify that these funds were not expended to increase salaries or benefits for facility administrators or administrators-in-training. The requirements of this subdivision shall apply to a long-term health care facility even if the facility's staffing ratio equals or exceeds the applicable ratio provided for in subdivision (c).

The department shall, after consultation with the California Association of Health Facilities and the California Association of Homes for the Aging, develop a methodology to determine whether facilities have spent funds in accordance with their certification. Thirty days prior to adoption of the methodology, the department shall notify the Joint Legislative Budget Committee and the fiscal committees of each house. Whenever the department finds that a facility has not spent funds in accordance with these provisions, the facility shall be liable for the amount paid to the facility pursuant to this section which was not distributed according to this section.

SEC. 22. Section 14124.7 is added to the Welfare and Institutions Code, to read:

14124.7. No long-term health care facility participating as a provider under the Medi-Cal program shall transfer, or seek to evict, out of the facility any resident as a result of the resident changing his or her manner of purchasing the services from private payment or Medicare to Medi-Cal.

SEC. 23. Section 14124.10 is added to the Welfare and Institutions Code, to read:

14124.10. No licensed long-term health care facility participating as a provider under the Medi-Cal program shall discriminate against a Medi-Cal patient on the basis of the source of payment for the facility's services that are required to be provided to individuals entitled to services under the Medi-Cal program. Nothing in this section shall be construed to prohibit a facility from charging private-pay patients for services required to be provided to Medi-Cal patients or which are in addition to those required under the Medi-Cal program. This section applies to licensed long-term health care facilities, to the extent not prohibited by federal law.

SEC. 23.5. The State Department of Health Services shall conduct a skilled nursing facility expenditure study. The State Department of Health Services may request the cooperation of the Joint Legislative Audit Committee in conducting the study. For the "Salaries, Wages and Benefits" component of annual Medi-Cal rate increases for skilled nursing facilities, the study shall compare both the annual percentage increases provided in this component, including other rate adjustments, and the annual aggregate Medi-Cal rate increase to the percentage of average hourly wage and benefit increases paid to nonadministrative employees by employee classification for the period beginning with the 1979–80 fiscal year through the 1984–85 fiscal year. For the three other components of the annual Medi-Cal rate increase for skilled nursing facilities, the study shall compare both the annual percentage increases provided in each component and the annual aggregate Medi-Cal rate increase

to the average percentage changes in actual expenditures by skilled nursing facilities for the major elements of each of the three components for the same time period as above. Skilled nursing facilities shall be required to make available all necessary and appropriate records, as determined by the State Department of Health Services. The study shall compare these factors on a statewide and regional basis consistent with Medi-Cal reimbursement categories. The study shall be submitted to the Governor and the Legislature on or before May 1, 1986.

SEC. 24. The sum of eight million eight hundred eighty-three thousand dollars ($8,883,000) is hereby appropriated from the General Fund to the Controller for allocation in accordance with the following schedule:

(a) To the Office of the State Long-Term Care Ombudsman for purposes of carrying out the provisions of Section 9726.1 of the Welfare and Institutions Code.....	$ 208,500
(b) To be allocated to the State Department of Health Services, upon approval of the Director of Finance, for costs incurred during the 1984–85 fiscal year in implementing Sections 14110.6 and 14110.7 of the Welfare and Institutions Code.....	$8,524,500
(c) To be allocated to the State Department of Health Services to conduct the skilled nursing facility expenditure study on or before May 1, 1986, pursuant to Section 23.5 of this act	$150,000

SEC. 24.5. If this bill and Assembly Bill 180 are both chaptered and become effective, this bill is chaptered after Assembly Bill 180, and Assembly Bill 180 makes an appropriation for any or all of the purposes described in Section 24 of this bill, then Section 24 of this bill shall not become operative.

SEC. 25. The State Department of Health Services shall in its budget proposals for fiscal year 1986–87 provide for the creation of 12 additional auditor positions and two additional support staff within the Audits and Investigations Division of the State Department of Health Services. The purpose for the creation of these auditor positions is to ensure compliance with Sections 14110.6 and 14110.7 of the Welfare and Institutions Code, and to evaluate cost reports and payroll records submitted by long-term health care facilities pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 26. 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. 27. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 28. 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. 29. Except as otherwise provided in Section 24.5 of this act, Sections 1 to 28, inclusive, of this act shall not become operative unless Assembly Bill 180 of the 1985–86 Regular Session becomes effective and operative, and in that case Sections 1 to 28, inclusive, of this act shall become operative at the same time as Assembly Bill 180 or this act, whichever is later.

SEC. 30. 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 fundamental statutory revisions affecting the quality of care rendered in California long-term health care facilities take effect at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 12

An act to amend and repeal Sections 8152 and 8153 of the Education Code, relating to apprentice education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State March 11, 1985]

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

SECTION 1. Section 8152 of the Education Code is amended to read:

8152. (a) Except as provided in subdivision (b), each 50-minute hour of teaching time devoted to each indentured apprentice

enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code shall be reimbursed at the rate of three dollars and twenty-five cents ($3.25) per hour.

(b) With respect to academy training conducted under the California Firefighter Joint Apprenticeship Program, each 50-minute hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code at a firefighter apprenticeship training academy shall be reimbursed at the rate of five dollars and seventy-five cents ($5.75) per hour.

(c) This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 8152 of the Education Code, as amended by Section 1 of Chapter 1068 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 8153 of the Education Code is amended to read:

8153. (a) Except as provided in subdivision (b), the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, whichever is appropriate, shall allow three dollars and twenty-five cents ($3.25) for each hour of teaching time, as defined in Section 8152, devoted to each indentured apprentice in classes of related and supplemental instruction provided by high schools, unified school districts, regional occupation centers or programs, community colleges, or adult schools.

(b) The Superintendent of Public Instruction or the Chancellor of the California Community Colleges, whichever is appropriate, shall allow five dollars and seventy-five cents ($5.75) for each hour of teaching time, as defined by subdivision (b) of Section 8152, devoted to each indentured apprentice in classes of related and supplemental instruction provided by high schools, unified school districts, regional occupational centers or programs, community colleges, or adult schools.

(c) This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 8153 of the Education Code, as amended by Section 2 of Chapter 1068 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. (a) It is the intent of the Legislature that any reimbursement received by the California Firefighter Joint Apprenticeship Program under subdivision (b) of Section 8152 in excess of the reimbursement rate provided in subdivision (a) of

Section 8152 shall be deemed an interest-free loan, repayable to the General Fund on July 1, 1992.

(b) The California Firefighter Joint Apprenticeship Program shall report to the Legislature on or before January 1, 1987, on the effectiveness of the program in accomplishing the affirmative action goals of participating public employers, and the extent to which the methods employed for placing qualified women and minorities as firefighters may serve as a model program for other public employers.

SEC. 4. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund in augmentation of Item 6870-101-001 of the Budget Act of 1984 for allocation by the Chancellor of the California Community Colleges, as appropriate, for reimbursement for apprenticeship training provided under subdivision (b) of Section 8153 of the Education Code during the 1984–85 fiscal year.

In the event the appropriation made by this section is inadequate to fund the higher rate established in Sections 8152 and 8153 of the Education Code, the rate of reimbursement shall be proportionately adjusted by the chancellor.

If additional federal training funds are made available through the California Firefighter Joint Apprenticeship Committee, the amount of expenditures pursuant to this appropriation shall be reduced by the amount of those available federal funds.

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 authorize reimbursement for firefighter apprenticeship training at the rates prescribed by Sections 8152 and 8153 at the earliest possible time, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 13

An act to amend Sections 17085, 17504, 17506, and 24564 of, and to add Sections 17088, 17151, and 17325 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor March 12, 1985. Filed with Secretary of State March 13, 1985.]

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

SECTION 1. Section 17085 of the Revenue and Taxation Code is amended to read:

17085. (a) (1) This section shall apply to amounts—

(A) Distributed to a distributee, in the case of an employee's

trust described in Section 401(a) of the Internal Revenue Code, which is exempt from tax under Section 17631, or

(B) Paid to a payee, in the case of an annuity plan described in Section 403(a) of the Internal Revenue Code,

if the total distributions or amounts payable to the distributee or payee with respect to an employee (including an individual who is an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code) are paid to the distributee or payee within one taxable year of the distributee or payee, but only to the extent that Section 402(a)(2) of the Internal Revenue Code or Section 403(a)(2) of the Internal Revenue Code does not apply to those amounts.

(2) This section shall apply only to distributions or amounts paid—

(A) On account of the employee's death,

(B) With respect to an individual who is an employee without regard to Section 401(c)(1) of the Internal Revenue Code, on account of his or her separation from the service,

(C) With respect to an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code, after he or she has attained the age of 59½ years, or

(D) With respect to an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code, after he or she has become disabled (within the meaning of Section 72(m)(7) of the Internal Revenue Code.

(3) This section shall apply to amounts distributed or paid to an employee from or under a plan only if he or she has been a participant in the plan for five or more taxable years prior to the taxable year in which those amounts are distributed or paid.

(4) This section shall not apply to amounts described in Section 72(m)(5)(A)(ii) of the Internal Revenue Code.

(b) In any case to which this section applies, the tax attributable to the amounts to which this section applies for the taxable year in which those amounts are received shall not exceed whichever of the following is the greater:

(1) Five times the increase in tax which would result from the inclusion in gross income of the recipient of 20 percent of so much of the amount so received as is includable in gross income, or

(2) Five times the increase in tax which would result if the taxable income of the recipient for that taxable year equaled 20 percent of the amount of the taxable income of the recipient for that taxable year determined under paragraph (1) of subdivision (c).

(c) Notwithstanding Section 17073 (relating to definition of taxable income), for purposes only of computing the tax under this part attributable to amounts to which this section or Section 72(m)(5) of the Internal Revenue Code applies and which are includable in gross income—

(1) The taxable income of the recipient for the taxable year of receipt shall be treated as being not less than the aggregate of those amounts so includable in gross income; and

(2) In making ratable inclusion computations under Section

72(m) (5) (B) of the Internal Revenue Code, the taxable income of the recipient for each taxable year involved in the ratable inclusion shall be treated as being not less than the amount required by Section 72(m) (5) (B) of the Internal Revenue Code to be treated as includable in gross income for that taxable year.

In any case in which the preceding sentence results in an increase in taxable income for any taxable year, the resulting increase in the taxes imposed by Section 17041 for that taxable year shall not be reduced by any credit under this part which, but for this sentence, would be allowable.

(d) In the case of amounts to which this section applies which are distributed or paid with respect to an individual who is an employee without regard to Section 401(c) (1) of the Internal Revenue Code, subdivision (b) shall be applied with the following modifications:

(1) "Seven times" shall be substituted for "five times," and "14⅔ percent" shall be substituted for "20 percent."

(2) Any amount which is received during the taxable year by the employee as compensation (other than as deferred compensation within the meaning of Sections 404(a) to 404(g), inclusive, of the Internal Revenue Code) for personal services performed for the employer in respect of whom the amounts distributed or paid are received shall not be taken into account.

(3) No portion of the total distributions or amounts payable (of which the amounts distributed or paid are a part) to which Section 402(a) (2) of the Internal Revenue Code or Section 403(a) (2) (A) applies shall be taken into account.

Paragraph (2) shall not apply if the employee has not attained the age of 59½ years unless he or she has died or become disabled (within the meaning of Section 72(m) (7) of the Internal Revenue Code).

(e) With respect to redemptions of qualified bonds under a qualified bond purchase plan after July 18, 1984, in taxable years ending after that date, if any portion of a lump-sum distribution is attributable to a transfer described in Section 405(d) (3) (A) (ii) of the Internal Revenue Code (as in effect before its repeal by Public Law 98-369):

(1) Subdivisions (b) and (d) shall not be applicable to that portion.

(2) Section 402(a) (2) of the Internal Revenue Code, as modified by Section 17504, shall not be applicable to that portion.

SEC. 2. Section 17088 is added to the Revenue and Taxation Code, to read:

17088. (a) In the case of any transfer of property in connection with the performance of services after June 30, 1976, and on or before November 18, 1982, the election permitted by former Section 17122.7, relating to inclusion in gross income in the year of transfer, may be made as provided under Section 83 of the Internal Revenue Code, notwithstanding Section 83(b) (2) of the Internal Revenue Code or paragraph (2) of subdivision (b) of former Section 17122.7, if all of the following occur:

(1) The amount paid for that property was not less than its fair market value at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse).

(2) The election is consented to by the person transferring the property.

(3) On the first day of the first taxable year ending on or after December 31, 1984, the rights of the person having the beneficial interest in that property were not transferable or there remained a substantial risk of forfeiture, whichever is applicable.

(b) The election pursuant to this section shall contain the same information as is required by the Secretary of the Treasury for elections permitted by Section 83(b) of the Internal Revenue Code and shall be filed prior to January 1, 1986.

(c) The period for assessing any deficiency attributable to a transfer of property which is the subject of an election made pursuant to this section shall not expire before the date which is four years after the date that election was made.

SEC. 3. Section 17151 is added to the Revenue and Taxation Code, to read:

17151. The amendments made to Section 127 of the Internal Revenue Code by Public Law 98-611, relating to educational assistance programs, shall apply to taxable years beginning on or after January 1, 1984.

SEC. 4. Section 17325 is added to the Revenue and Taxation Code, to read:

17325. The amendments made to Section 368(c) of the Internal Revenue Code by Public Law 98-369, relating to corporate reorganizations, shall apply to transactions pursuant to plans adopted after July 18, 1984.

SEC. 5. Section 17504 of the Revenue and Taxation Code is amended to read:

17504. The provisions of Section 402(a) of the Internal Revenue Code, relating to taxability of beneficiaries of exempt trusts, shall be modified as follows:

(a) The amendments made to Section 402(a) of the Internal Revenue Code by Public Law 98-369 shall apply to distributions made after July 18, 1984, in taxable years ending after that date.

(b) Any amount qualifying for capital gain treatment under Section 402(a)(2) of the Internal Revenue Code shall be treated as a gain from the sale of exchange of a capital asset held for more than five years.

(c) Section 402(a)(2) of the Internal Revenue Code shall not apply to any distribution to the extent that such distribution is attributable to contributions made on behalf of the employee while he or she was an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code.

SEC. 6. Section 17506 of the Revenue and Taxation Code is amended to read:

17506. (a) The provisions of Section 403(a) of the Internal Revenue Code, relating to taxation of employee annuities, shall be modified as follows:

(1) Any amount qualifying for capital gain treatment under Section 403(a)(2) of the Internal Revenue Code shall be treated as a gain from the sale or exchange of a capital asset held for more than five years.

(2) Section 403(a)(2) of the Internal Revenue Code shall not apply to any distribution to the extent that such distribution is attributable to contributions made on behalf of the employee while he or she was an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code.

(3) The amendments made to Section 403(a)(4) of the Internal Revenue Code by Public Law 98-369, relating to rollovers, shall apply to distributions made after July 18, 1984, in taxable years ending after that date.

(b) The amendments made to Section 403(b)(8) of the Internal Revenue Code by Public Law 98-369, relating to rollovers, shall apply to distributions made after July 18, 1984, in taxable years ending after that date.

SEC. 7. Section 24564 of the Revenue and Taxation Code is amended to read:

24564. (a) For purposes of Chapter 8, and this article, the term "control" means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

(b) (1) In the case of any transaction with respect to which the requirements of subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 24531 are met, for purposes of determining whether that transaction is described in paragraph (4) of subdivision (a) of Section 24562, the term "control" has the meaning given to that term by subdivision (c) of Section 24457.

(2) This subdivision shall apply to transactions pursuant to plans adopted after July 18, 1984.

SEC. 8. Notwithstanding any other provision of the Revenue and Taxation Code or Unemployment Insurance Code to the contrary, no penalty or interest shall be assessed or imposed for any failure to withhold tax during calendar year 1984 for amounts received under an educational assistance program, as defined by Section 127 of the Internal Revenue Code.

SEC. 9. 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 or income years beginning on or after January 1, 1984.

CHAPTER 14

An act to amend Section 23401 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor March 12, 1985. Filed with Secretary of State March 13, 1985.]

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

SECTION 1. Section 23401 of the Revenue and Taxation Code is amended to read:

23401. For purposes of this chapter the items of tax preference are:

(a) With respect to each property as described in Section 1250(c) of the Internal Revenue Code as that provision read on April 1, 1970, the amount by which the deduction allowable for the income year for exhaustion, wear, tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the income year, had the taxpayer depreciated the property under the straight line method for each income year of its useful life (determined without regard to Section 24354.2 or 24381) for which the taxpayer has held the property.

(b) In the case of a taxpayer subject to tax under Article 3 (commencing with Section 23181) of Chapter 2, the amount by which the deduction allowable for the income year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowed if the taxpayer maintained its bad debt reserve for all income years on the basis of actual experience, as defined in Section 585(b)(3)(A) of the Internal Revenue Code of 1954.

It is the intent of the Legislature that this subdivision shall apply only to new additions each year to the bad debt reserve.

(c) With respect to each property, as defined in Sections 24831 to 24835, inclusive, the excess of the deduction for depletion allowable under Section 24835 for the income year over the adjusted basis of the property at the end of the income year, as determined without regard to the depletion deduction for the income year.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applied in the computation of taxes for income years beginning on or after January 1, 1984.

CHAPTER 15

An act to add Section 19531.6 to the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 28, 1985. Filed with Secretary of State March 28, 1985.]

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

SECTION 1. Section 19531.6 is added to the Business and Professions Code, to read:

19531.6. Notwithstanding subdivision (b) of Section 19531, the maximum number of racing weeks which may be allocated by the board for horseracing other than at the California Exposition and State Fair, or county or district agricultural association fairs, shall be for harness racing: 15 weeks per year in the northern zone; 10 weeks per year in the central zone; and 15 weeks per year in the southern zone.

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 allow a more efficient allocation of harness racing dates so that revenues accruing to the state during the 1984–85 fiscal year can be maximized, it is necessary that this act take effect immediately.

CHAPTER 16

An act to amend Section 17514 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor March 28, 1985. Filed with Secretary of State March 29, 1985]

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

SECTION 1. Section 17514 of the Revenue and Taxation Code is amended to read:

17514. (a) The provisions of Section 422A of the Internal Revenue Code shall apply with respect to options granted and exercised on or after January 1, 1982.

(b) For taxable years beginning on or after January 1, 1984, the provisions of Section 422A of the Internal Revenue Code shall apply with respect to options granted on or after January 1, 1976, and exercised on or after January 1, 1984. In the case of an option granted

prior to January 1, 1981, this subdivision shall apply only if the corporation granting that option made a federal election to have Section 422A of the Internal Revenue Code apply to that option.

(c) In the case of an option granted on or after January 1, 1976, and outstanding on December 31, 1983, Section 425(h)(1) of the Internal Revenue Code shall not apply to any change in the terms of that option (or the terms of the plan under which granted, including shareholder approval) made within one year after August 13, 1981, to permit that option to qualify as an incentive stock option.

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 17

An act to amend Section 8901 of the Government Code, relating to the Legislature, and making an appropriation therefor.

[Approved by Governor March 29, 1985 Filed with Secretary of State March 29, 1985.]

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

SECTION 1. Section 8901 of the Government Code is amended to read:

8901. Commencing at noon on January 2, 1967, each Member of the Legislature shall receive as compensation for his or her services sixteen thousand dollars ($16,000) per year, during the term for which he or she was elected, payable in equal monthly amounts.

Commencing at noon on January 4, 1971, the annual compensation provided by this section shall be increased to nineteen thousand two hundred dollars ($19,200).

Commencing at noon on December 2, 1974, the annual compensation provided by this section shall be increased to twenty-one thousand one hundred twenty dollars ($21,120).

Commencing at noon on December 6, 1976, the annual compensation provided by this section shall be increased to twenty-three thousand two hundred thirty-two dollars ($23,232).

Commencing at noon on December 4, 1978, the annual compensation provided by this section shall be increased to twenty-five thousand five hundred fifty-five dollars ($25,555).

Commencing at noon on December 1, 1980, the annual compensation provided by this section shall be increased to twenty-eight thousand one hundred ten dollars ($28,110).

Commencing at noon at December 3, 1984, the annual compensation provided by this section shall be increased to thirty-three thousand seven hundred thirty-two dollars ($33,732).

Commencing at noon on December 1, 1986, the annual compensation provided by this section shall be increased to

thirty-seven thousand one hundred five dollars ($37,105).

CHAPTER 18

An act to add Chapter 6 (commencing with Section 63101) to Part 3 of Division 21 of the Food and Agricultural Code, relating to agricultural marketing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 29, 1985. Filed with Secretary of State March 29, 1985]

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

SECTION 1. Chapter 6 (commencing with Section 63101) is added to Part 3 of Division 21 of the Food and Agricultural Code, to read:

CHAPTER 6. MARKETING OF PROCESSING STRAWBERRIES

Article 1. General Provisions

63101. It is the declared policy of the state to eliminate fraud, misinformation, deception, and other unfair trade practices that have existed in the processing strawberry industry and are detrimental to producers, processors, and consumers of processing strawberries due to the unavailability of accurate and reliable market price information. In order to prevent fraud, misinformation, deception, and other unfair trade practices, it is hereby declared as the policy of the state that the purchase of processing strawberries be subject to this chapter. The necessity for the enactment of this chapter, including the exemptions contained within it, is declared to be for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

63102. "Processing strawberries" means strawberries produced, in whole or in part, for the purpose of being ultimately processed into a use other than fresh consumption.

63103. "Purchase price" means all price and price terms for processing strawberries, including any and all forms of compensation from processors to producers.

63104. "Integrated producer-processor" means any producer who processes strawberries of his or her own production either as an individual, a business entity, or as a separate business entity operating as parent and subsidiary, or otherwise, which are under the same ownership and control, and who retains title to the processed strawberries, including, but not limited to, all rights to hypothecate the processed strawberries.

63105. This chapter covers any marketing order issued pursuant

to Chapter 1 (commencing with Section 58601) of Part 2 which exclusively affects processing strawberries.

Article 2. Marketing Orders

63121. Any marketing order affecting processing strawberries shall require that each time during a marketing season that a processor establishes or changes purchase prices for processing strawberries, the processor shall, on or before the effective date of the purchase prices, post a schedule of the purchase prices at each receiving station for which each schedule applies, and file each schedule with the marketing order advisory board established under the marketing order. The advisory board shall, within five days of the effective date of each purchase price schedule, mail or deliver a copy of the schedule to every other processor. Except as otherwise provided in this chapter, a processor shall acquire processing strawberries at the filed purchase price.

63122. The director shall adopt a seasonal marketing regulation pursuant to Section 59171 for price filing and posting. The regulation shall not become effective prior to April 1 of any year.

63123. The director, with the assistance of the advisory board, shall establish administrative rules and regulations that provide for, but are not limited to, the specific manner of filing, posting, and revising purchase prices and any additional action necessary to assure adequate public disclosure of purchase prices.

63124. (a) The following are exempt from this chapter:

(1) An integrated producer-processor. This exemption does not apply to the acquisition of strawberries for processing from any person who is not involved in a proprietary manner in the integrated producer-processor operation and who is not compensated for strawberries delivered through a proportionate share of the profits of the business entity.

(2) A processor registered in the state as a bona fide nonprofit cooperative when it acquires strawberries from members of the cooperative. This exemption does not apply to the acquisition of strawberries for processing from any person who is not a member of the cooperative.

(3) A contract with a fixed purchase price for the purchase of processing strawberries by a processor from a producer which is entered into and filed prior to the effective date of any seasonal marketing regulation for price filing and posting adopted pursuant to this chapter.

(4) Any contract for the purchase of strawberries for processing by a processor from a producer entered into prior to January 1, 1985, and filed prior to the effective date of any seasonal marketing regulation for price filing and posting adopted pursuant to this chapter.

(b) Information obtained by the advisory board pursuant to this chapter shall be maintained in confidence. However, the advisory

board may disclose, upon request, whether a particular producer's processing strawberries are covered by an exempt contract or other arrangement.

63125. The director shall actively supervise the requirements of this chapter and conduct an annual review of its provisions. The review may include an analysis of written reports from processors which the director is authorized to require, an investigation of industry conditions, an audit of processor records required to be maintained pursuant to this chapter, and any other actions relating to this chapter that are deemed necessary by the director.

63126. On or before the last day of each year in which a marketing order exclusively affecting processing strawberries is in effect, the director shall prepare and file with the Legislature a written report of the operations of this chapter and shall make recommendations regarding its various provisions. Each report and recommendation shall be based on determinations made by the director as a result of the annual review specified in Section 63125.

63127. The director shall suspend the requirements of this chapter if he or she determines as a result of the annual review and states in the annual report required in Section 63126 that price filing and posting is not required to prevent unfair trade practices. The suspension shall apply to the year following the determination unless legislation requiring the adoption of a seasonal marketing regulation for price posting is enacted prior to April 1 of that year.

63128. This chapter does not apply to the acquisition of strawberries for processing by a processor from another processor.

63129. The director shall amend any existing marketing order exclusively affecting processing strawberries in a manner necessary to conform to this chapter without the necessity of complying with any provisions of Chapter 1 (commencing with Section 58601) of Part 2 including those sections relating to the amendment of a marketing order.

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

In order to ensure that the provisions of this act become operative in time for the 1985 strawberry processing season, it is necessary that this act take effect immediately.

CHAPTER 19

An act to amend Section 1228 of, and to add Section 3375.5 to, the Financial Code, relating to banks, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 29, 1985. Filed with Secretary of State March 29, 1985.]

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

SECTION 1. Section 1228 of the Financial Code is amended to read:

1228. A commercial bank may lend on the security of a first lien on real property or a first lien on a leasehold under a lease which does not expire, or which has been extended or renewed so that it does not expire, for at least 10 years beyond the maturity date of the loan, if the criteria of any of the following subdivisions are satisfied:

(a) The loan is fully guaranteed or insured or covered by a commitment to guarantee or insure by the United States, the Federal Housing Administrator, or by any other agency of the United States which the superintendent shall have approved for the purposes of this subdivision as an issuer of insurance or guarantees of loans on real property, whether the proceeds of the guarantee or insurance is payable in cash or in obligations of the United States.

(b) The loan is fully guaranteed by the United States or any agency thereof pursuant to the "Servicemen's Readjustment Act of 1944" or any act of Congress supplementary or amendatory thereof, or, if a portion of the loan is so guaranteed, then if the unguaranteed portion of the loan does not exceed 80 percent of the sound market value of the property or leasehold for loan purposes as determined by proper appraisal.

(c) The loan is one in which the Small Business Administration cooperates through agreements to participate on an immediate or deferred basis under the Small Business Act, as amended.

SEC. 2. Section 3375.5 is added to the Financial Code, to read:

3375.5. A bank may make a loan, otherwise complying with the provisions of this division, for the benefit of a trust, notwithstanding that the bank or any one or more executive officers or directors of the bank are trustees of the trust, provided that no executive officer or director of the bank is a beneficiary of the trust.

SEC. 3. Section 2 of this act shall become operative on April 1, 1985.

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:

When Article 2 (commencing with Section 3370) of Chapter 18 of Division 1 of the Financial Code was repealed and reenacted by

Chapter 975 of the Statutes of 1984, operative April 1, 1985, the substance of Section 3377.1 thereof was inadvertently omitted. In order for that omission to be remedied and operative by April 1, 1985, when the new article becomes operative, it is necessary that this act take effect immediately. Also, in order to clarify existing law respecting real property loans of commercial banks without delay, it is necessary that this act take effect immediately.

CHAPTER 20

An act to amend Section 1656.1 of the Civil Code, to amend Sections 25174 and 25174.6 of the Health and Safety Code, and to amend Section 43151 of, to add Section 43153 to, repeal Sections 6595, 8879, 12637, 30284, 32320, 40101.1, 41098, and 44092 of, and to repeal Article 5 (commencing with Section 7741) of Chapter 5 of Part 2 of, and Article 6 (commencing with Section 43361) of Chapter 3 of Part 22 of, Division 2 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 29, 1985 Filed with Secretary of State March 29, 1985]

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

SECTION 1. Section 1656.1 of the Civil Code is amended to read:

1656.1. (a) Whether a retailer may add sales tax reimbursement to the sales price of the tangible personal property sold at retail to a purchaser depends solely upon the terms of the agreement of sale. It shall be presumed that the parties agreed to the addition of sales tax reimbursement to the sales price of tangible personal property sold at retail to a purchaser if:

(1) The agreement of sale expressly provides for such addition of sales tax reimbursement;

(2) Sales tax reimbursement is shown on the sales check or other proof of sale; or

(3) The retailer posts in his premises in a location visible to purchasers, or includes on a price tag or in an advertisement or other printed material directed to purchasers, a notice to the effect that reimbursement for sales tax will be added to the sales price of all items or certain items, whichever is applicable.

(b) It shall be presumed that the property, the gross receipts from the sale of which is subject to the sales tax, is sold at a price which includes tax reimbursement if the retailer posts in his premises, or includes on a price tag or in an advertisement (whichever is applicable) one of the following notices:

(1) "All prices of taxable items include sales tax reimbursement computed to the nearest mill."

(2) "The price of this item includes sales tax reimbursement computed to the nearest mill."

(c) (1) The State Board of Equalization shall prepare and make available for inspection and duplication or reproduction a sales tax reimbursement schedule which shall be identical with the following tables up to the amounts specified therein:

4¾ percent

Price	Tax
.01– .10	.00
.11– .29	.01
.30– .50	.02
.51– .72	.03
.73– .94	.04

5 percent

Price	Tax
.01– .10	.00
.11– .27	.01
.28– .47	.02
.48– .68	.03
.69– .89	.04
.90–1.09	.05

5¼ percent

Price	Tax
.01– .10	.00
.11– .26	.01
.27– .45	.02
.46– .65	.03
.66– .84	.04
.85–1.03	.05

6 percent

Price	Tax
.01– .10	.00
.11– .22	.01
.23– .39	.02
.40– .56	.03
.57– .73	.04
.74– .90	.05
.91–1.08	.06

6¼ percent

Price	Tax
.01– .10	.00
.11– .21	.01
.22– .37	.02
.38– .54	.03

.55– .70	.04
.71– .86	.05
.87–1.03	.06

6½ percent

Price	Tax
.01– .10	.00
.11– .20	.01
.21– .35	.02
.36– .51	.03
.52– .67	.04
.68– .83	.05
.84– .99	.06
1.00–1.15	.07

7 percent

Price	Tax
.01– .10	.00
.11– .20	.01
.21– .33	.02
.34– .47	.03
.48– .62	.04
.63– .76	.05
.77– .91	.06
.92–1.07	.07

(2) Reimbursement on sales prices in excess of those shown in the schedules may be computed by applying the applicable tax rate to the sales price, rounded off to the nearest cent by eliminating any fraction less than one-half cent and increasing any fraction of one-half cent or over to the next higher cent.

(3) If sales tax reimbursement is added to the sales price of tangible personal property sold at retail, the retailer shall use a schedule provided by the board, or a schedule approved by the board.

(d) The presumptions created by this section are rebuttable presumptions.

SEC. 1.3. Section 25174 of the Health and Safety Code is amended to read:

25174. (a) Each person who disposes of hazardous wastes onsite, or who submits the hazardous waste for disposal offsite, shall pay a fee directly to the State Board of Equalization for disposal of those wastes. The director shall establish a schedule of the fees to be paid to the State Board of Equalization by the operator for disposal of hazardous or extremely hazardous waste, which shall provide revenues which shall not exceed the amount necessary, but shall be sufficient, to cover all costs incurred in the administration of this chapter and to provide a 5 percent operating reserve. The fees shall be deposited by the State Board

of Equalization in the Hazardous Waste Control Account in the General Fund. The funds deposited in that account are continuously appropriated for expenditure without regard to fiscal years for the following purposes:

(1) To the State Board of Equalization to pay refunds of fees collected pursuant to Section 43051 of the Revenue and Taxation Code.

(2) To the department to carry out the provisions of this chapter.

(b) This section shall become operative on July 1, 1985.

SEC. 1.5. Section 25174.6 of the Health and Safety Code is amended to read:

25174.6. (a) Except as otherwise provided in Section 25174.9, the fee provided pursuant to Section 25174 to be paid, through June 30, 1985, by the operators of onsite and offsite hazardous waste facilities for each ton, or fraction thereof, of hazardous waste which the operator disposes of on land or applies to land, shall be at the following rates, and, on and after July 1, 1985, the fee provided pursuant to Section 25174 to be paid by persons disposing of hazardous waste onsite, or submitting hazardous waste for disposal offsite, for each ton, or fraction thereof, of hazardous waste disposed of on land or applied to land, shall be at the following rates:

(1) Two dollars and forty-eight cents ($2.48) for each ton, or fraction thereof, for up to the first 3,500 tons of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, except as provided in subdivision (f), which is not subject to Subchapter III (commencing with Section 6921) of Chapter 82 of Title 42 of the United States Code, pursuant to subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4), or hazardous waste for which the Administrator of the Environmental Protection Agency has determined that regulation is unwarranted, as specified in subparagraph (C) of paragraph (2) of, and subparagraph (c) of paragraph (3) of, subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4). Except as provided in subdivision (f), any of this hazardous waste disposed of, or submitted for offsite disposal, which exceeds 3,500 tons per month, is exempt from any fee imposed by this section.

(2) Two dollars and forty-eight cents ($2.48) for each ton, or fraction thereof, for up to the first 3,500 tons, of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, except as provided in subdivision (f), which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the mining of

uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4). Except as provided in subdivision (f), any of this hazardous waste disposed of, or submitted for offsite disposal, which exceeds 3,500 tons per month is exempt from any fee imposed by this section.

(3) Nineteen dollars and eighty-four cents ($19.84) for each ton, or fraction thereof, of extremely hazardous waste.

(4) Nineteen dollars and eighty-four cents ($19.84) for each ton, or fraction thereof, of restricted hazardous wastes listed in Section 66900 of Title 22 of the California Administrative Code.

(5) Fifty cents ($0.50) for each ton or fraction thereof of solid hazardous waste residues resulting from incineration or other controlled chemical or physical treatment processes if the department determines that the processes alter the physical properties of the waste being incinerated or treated and effectively remove all free liquids and volatile organic constituents from the waste being incinerated or treated.

(6) Nine dollars and ninety-two cents ($9.92) for each ton, or fraction thereof, for up to the first 3,500 tons of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, of hazardous waste, except as provided in subdivision (f), which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4) or (5).

(b) The amount of fees payable to the State Board of Equalization pursuant to this section shall be calculated using the total wet weight, measured in tons or fractions thereof, of the hazardous waste in the form in which the hazardous waste existed at the time of disposal, submission for disposal, or application to land using the land disposal methods defined in Section 66122 of Title 22 of the California Administrative Code.

(c) Notwithstanding subdivision (a), the fee rate for hazardous waste disposed of, or submitted for offsite disposal, into a surface impoundment which is double lined, meets the criteria specified in paragraph (1), and for which a report has not been submitted pursuant to paragraph (2), is ninety-nine cents ($0.99) for each ton or fraction thereof, of hazardous waste so disposed of or submitted for disposal. The owner or operator of the surface impoundment shall certify to the State Board of Equalization that the requirements of subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) have been met before the fee rate specified in this subdivision may be applied to the hazardous waste disposed of, or submitted for disposal, into the surface impoundment.

(1) This subdivision applies only to hazardous waste disposed of, or submitted for disposal, into a surface impoundment which meets all the following criteria:

(A) The surface impoundment is double lined and is equipped with a leachate collection system which is in place and in operation, and complies with existing federal and state regulations

and guidance documents published by the United States Environmental Protection Agency prior to July 1, 1984.

(B) The surface impoundment has in place and in operation a minimum of one up-gradient and two down-gradient monitoring wells capable of identifying the migration of any hazardous waste constituents disposed of into the surface impoundment.

(C) The surface impoundment has in place and in operation a vadose zone monitoring system capable of identifying the migration of any hazardous waste constituents disposed of into the surface impoundment from the impoundment into the zone between the surface and the water table.

(D) The surface impoundment has an enforceable site closure plan which initiates closure of the impoundment within 12 years after the surface impoundment is certified pursuant to this subdivision. This plan shall require the surface impoundment, and any surrounding soils contaminated by the impoundment, to be returned to a nonhazardous condition within five years of initiating closure.

(E) The owner or operator has submitted to the department and to the California Regional Water Quality Control Board documentation demonstrating full compliance with subparagraphs (A), (B), (C), and (D).

(2) Upon discovering that, or receiving notification that, a surface impoundment certified for the fee rate specified in this subdivision has leaked or overflowed, and that there is migration into the vadose zone or into the waters of the state, the owner or operator of the surface impoundment shall report the migration to the department and the California Regional Water Quality Control Board within 24 hours after the migration or unauthorized release has been detected. The owner or operator shall transmit a full written report to the department and the regional board within five working days after the detection of the migration. The reporting requirements imposed by this paragraph are in addition to any requirements which may be imposed by Section 13271 of the Water Code. Unless the regional board, or its executive officer, determines that the presence of the hazardous waste constituents in the migration do not pose any short-term or long-term, present or potential, hazards to human health or the environment, the regional board shall issue a cease and desist order pursuant to Section 13301 of the Water Code prohibiting any discharge into the surface impoundment and shall take any other actions which are necessary.

(3) After a surface impoundment has been the subject of a report specified in paragraph (2), the fee rate specified in this subdivision for hazardous waste disposed of, or submitted for disposal, into that surface impoundment shall not apply and the fees shall be calculated pursuant to subdivision (a). The fee rate specified in this subdivision may again be applied to the hazardous waste disposed of, or submitted for disposal, into the surface

impoundment only after the department and the California Regional Water Quality Control Board determines that hazardous constituents are no longer migrating from the surface impoundment, and that there is no significant potential for them to migrate from the surface impoundment into the vadose zone or into the waters of the state, so that the presence of the hazardous constituents poses, or would pose, a present or potential hazard to human health or the environment.

(d) All fees imposed by this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(e) The fees specified in subdivision (a) shall be effective commencing July 1, 1984, and shall remain in effect only until July 1, 1985.

(f) The monthly tonnage limits on the amount of hazardous waste subject to the fee imposed by this section shall remain in effect only until July 1, 1985, and after that date the fees specified in this section shall apply to all amounts of the hazardous waste disposed of, or submitted for offsite disposal, per month.

SEC. 2. Section 6595 of the Revenue and Taxation Code is repealed.

SEC. 3. Article 5 (commencing with Section 7741) of Chapter 5 of Part 2 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 8879 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 12637 of the Revenue and Taxation Code is repealed.

SEC. 6. Section 30284 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 32320 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 40101.1 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 41098 of the Revenue and Taxation Code is repealed.

SEC. 9.3. Section 43151 of the Revenue and Taxation Code is amended to read:

43151. The taxes collected and administered under Section 43051 are due and payable to the board quarterly on or before the 15th day of the calendar month following the quarterly period for which the tax is due. Each taxpayer, on or before the 15th day of the month following the quarterly period for which the tax is due, shall make out a tax return for the preceding quarterly period, in the form as prescribed by the board, showing the total amount of hazardous waste subject to the tax, the amount of tax for the period covered by the return, and any other information that the board deems necessary. The taxpayer shall deliver the return, together with a remittance of the amount of tax due, to the office

of the board on or before the 15th day of the month following the quarterly period for which the tax is due.

With the approval of the board, a taxpayer who has more than one hazardous waste facility subject to the taxes collected and administered under this chapter, may file a combined tax return covering operations at more than one, or all, of those hazardous waste facilities.

This section shall become operative July 1, 1985.

SEC. 9.5. Section 43153 is added to the Revenue and Taxation Code, to read:

43153. The board, if it deems it necessary in order to facilitate the administration of this part, may require returns and payments specified under Section 43151 to be made for periods longer than quarterly.

SEC. 10. Article 6 (commencing with Section 43361) of Chapter 3 of Part 22 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 44092 of the Revenue and Taxation Code is repealed.

SEC. 12. Section 1 of this act shall become operative on April 1, 1985, and Sections 1.3 and 2 to 11, inclusive, of this act shall become operative on July 1, 1985.

SEC. 12.5. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of 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 eliminate any financial hardship on California taxpayers caused by the accrual of compound interest on penalties and to implement the intent of Chapter 1020 of the Statutes of 1984, which is to accrue simple interest only on tax liabilities; and in order to provide taxpayers guidance on computing the proper amount of tax on increments of sales that would generate up to a tax amount of seven cents ($.07), when selling tangible personal property in or for use in Santa Clara County; and in order to implement and administer effectively the California Hazardous Substance Tax Law, it is necessary that this act take effect immediately.

CHAPTER 21

An act to amend Sections 11019 and 11055 of, and to add Section 11033 to, the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 1, 1985. Filed with Secretary of State April 2, 1985.]

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

SECTION 1. Section 11019 of the Health and Safety Code is amended to read:

11019. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(b) Any salt, compound, isomer, or derivative, whether natural or synthetic, of the substances referred to in subdivision (a), but not including the isoquinoline alkaloids of opium.

(c) Opium poppy and poppy straw.

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(e) Cocaine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.

(f) Ecgonine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.

SEC. 2. Section 11033 is added to the Health and Safety Code, to read:

11033. As used in this division, except as otherwise defined, the term "isomer" includes optical and geometrical (diastereomeric) isomers.

SEC. 3. Section 11055 of the Health and Safety Code is amended to read:

11055. (a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl-14-hydroxy-nordihydromorphinone

hydrochloride), but including the following:

(A) Raw opium.

(B) Opium extracts.

(C) Opium fluid extracts.

(D) Powdered opium.

(E) Granulated opium.

(F) Tincture of opium.

(G) Apomorphine.

(H) Codeine.

(I) Ethylmorphine.

(J) Hydrocodone.

(K) Hydromorphone.

(L) Metopon.

(M) Morphine.

(N) Oxycodone.

(O) Oxymorphone.

(P) Thebaine.

(2) Any salt, compound, isomer, or derivative, whether natural or synthetic, of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

(6) Cocaine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.

(7) Ecgonine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alphaprodine.

(2) Anileridine.

(3) Bezitramide.

(4) Bulk dextropropoxyphene (nondosage forms).

(5) Dihydrocodeine.

(6) Diphenoxylate.

(7) Fentanyl.

(8) Isomethadone.

(9) Levomethorphan.

(10) Levorphanol.

(11) Metazocine.

(12) Methadone.

(13) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.

(14) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.

(15) Pethidine (meperidine).

(16) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.

(17) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.

(18) Pethidine-Intermediate-C,-1-methyl 4-phenylpiperidine-4-carboxylic acid.

(19) Phenazocine.

(20) Piminodine.

(21) Racemethorphan.

(22) Racemorphan.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(2) Methamphetamine, its salts, isomers, and salts of its isomers.

(3) Phenmetrazine and its salts.

(4) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital.

(2) Pentobarbital.

(3) Phencyclidines, including the following:

(A) 1-(1-phenylcyclohexyl) piperidine (PCP).

(B) 1-(1-phenylcyclohexyl) morpholine (PCM).

The Attorney General, or his or her designee, may, by rule or regulation, add additional analogs of phencyclidine to those enumerated in this paragraph after notice, posting, and hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Attorney General shall, in the calendar year of the regular session of the Legislature in which the rule or regulation is adopted, submit a draft of a proposed bill to each house of the Legislature which would incorporate the analogs into this code. No rule or regulation shall remain in effect beyond January 1 after the calendar year of the regular session in which the draft of the proposed bill is submitted to each house. However, if the draft of the proposed bill is submitted during a recess of the Legislature exceeding 45 calendar days, the

rule or regulation shall be effective until January 1 after the next calendar year.

(4) Secobarbital.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone. Some trade or other names: phenyl-2 propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine.

(B) 1-piperidinocyclohexanecarbonitrile (PCC).

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 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. 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:

This is an emergency situation in which court cases may be dismissed unless ambiguities regarding forms of cocaine are resolved by statute.

CHAPTER 22

An act to add Chapter 1.11 (commencing with Section 199.20) to Part 1 of Division 1 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 3, 1985. Filed with Secretary of State April 4, 1985]

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

SECTION 1. Chapter 1.11 (commencing with Section 199.20) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

CHAPTER 1.11. MANDATED BLOOD TESTING AND CONFIDENTIALITY TO PROTECT PUBLIC HEALTH

199.20. To protect the privacy of individuals who are the subject of blood testing for antibodies to the probable causative agent of acquired immune deficiency syndrome (AIDS) the following shall

apply:

Except as provided in Section 1603.1 or 1603.3, as amended by AB 488 of the 1985–86 Regular Session, no person shall be compelled in any state, county, city, or other local civil, criminal, administrative, legislative, or other proceedings to identify or provide identifying characteristics which would identify any individual who is the subject of a blood test to detect antibodies to the probable causative agent of AIDS.

199.21. (a) Any person who negligently discloses results of a blood test to detect antibodies to the probable causative agent of acquired immune deficiency syndrome to any third party, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1 or 1603.3, as amended by AB 488 of the 1985–86 Regular Session, shall be assessed a civil penalty in an amount not to exceed one thousand dollars ($1,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(b) Any person who willfully discloses the results of a blood test to detect antibodies to the probable causative agent of the acquired immune deficiency syndrome, to any third party, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1 or 1603.3, as amended by AB 488 of the 1985–86 Regular Session, shall be assessed a civil penalty in an amount not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(c) Any person who willfully or negligently discloses the results of a blood test to detect antibodies to the probable causative agent of acquired immune deficiency syndrome to a third party, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1 or 1603.3, as amended by AB 488 of the 1985–86 Regular Session, which results in economic, bodily, or psychological harm to the subject of the test, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period not to exceed one year or a fine of not to exceed ten thousand dollars ($10,000) or both.

(d) Any person who commits any act described in subdivision (a) or (b) shall be liable to the subject for all actual damages, including damages for economic, bodily, or psychological harm which is a proximate cause of the act.

(e) Each disclosure made in violation of this chapter is a separate and actionable offense.

(f) The results of a blood test to detect antibodies to the probable causative agent of acquired immune deficiency syndrome shall not be used in any instance for the determination of insurability or suitability for employment.

(g) "Written authorization," as used in this section, applies only to the disclosure of test results by a person responsible for the care and treatment of the person subject to the test. Written

authorization is required for each separate disclosure of the test results, and shall include to whom the disclosure would be made.

(h) Nothing in this section limits or expands the right of an injured subject to recover damages under any other applicable law.

(i) Nothing in this section shall be construed to impose liability or criminal sanction for disclosure of a blood test to detect antibodies to the probable causative agent of AIDS in accordance with any reporting requirement for a diagnosed case of AIDS by the state department or the Centers for Disease Control under the United States Public Health Services.

(j) The state department may require blood banks and plasma centers to submit monthly reports summarizing statistical data concerning the results of tests to detect the presence of viral hepatitis and antibodies to the probable causative agent of AIDS. This statistical summary shall not include the identity of individual donors or identifying characteristics which would identify individual donors.

(k) "Disclosed," as used in this section, means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic means to any person or entity.

(*l*) "Results of a blood test," as used in this section, means to identify or provide identifying characteristics of the person to whom the results apply.

199.22. No person shall test a person's blood for evidence of antibodies to the probable causative agent of AIDS without the written consent of the subject of the test, and the person giving the test shall have a written statement signed by the subject confirming that he or she obtained the consent from the subject.

This requirement does not apply to a test performed at an alternative site, as established pursuant to Article 8 (commencing with Section 1630) of Chapter 4 of Division 2. This requirement also does not apply to any blood and blood products specified in paragraph (2) of subdivision (a) of Section 1603.1, as amended by Assembly Bill 488 of the 1985–86 Regular Session.

199.23. Neither the state department nor any blood bank or plasma center, including a blood bank or plasma center owned or operated by a public entity, shall be held liable for any damages resulting from the notification of test results, as set forth in paragraph (3) of subdivision (a) of, and in subdivision (c) of, Section 1603.3, as amended by AB 488 of the 1985–86 Regular Session.

SEC. 2. (a) No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because part of the 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.

(b) No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500)

of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

SEC. 3. 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. 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 protect the confidentiality of persons undergoing a blood test for the detection of anitbodies to acquired immune deficiency syndrome, and to encourage individuals who are stricken with the disease to undergo treatment which would ultimately benefit the health and welfare of all citizens of the State of California, it is necessary that this act take immediate effect.

CHAPTER 23

An act to amend Sections 199.21 and 1603.1 of, to add Sections 1603.3 and 1603.4 to, and to add Article 8 (commencing with Section 1630) to Chapter 4 of Division 2 of, the Health and Safety Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 3, 1985. Filed with Secretary of State April 4, 1985.]

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

SECTION 1. The Legislature finds and declares that acquired immune deficiency syndrome is a serious and growing viral-based epidemic in the United States.

The incidence of acquired immune deficiency syndrome (AIDS) caused by blood transfusions is a growing and serious problem and is expected to increase and since a test will soon be available to indicate exposure to the probable causative agent of AIDS, it is crucial that donations of blood be tested for the presence of the antibodies to the probable causative agent of AIDS to safeguard against the possibility of transmitting the disease by transfusion.

The Legislature finds and declares it is a desired goal to discourage individuals in high-risk groups, as defined by the State Department of Health Services, who are expected to be exposed to AIDS, from donating blood in order to safeguard against transmitting the disease by transfusion.

Furthermore, the Legislature declares that it is imperative to delay notification of all persons who test reactive for the antibody test at a blood bank or plasma center for that period of time necessary to discourage members from high-risk groups from visiting a blood donation site.

SEC. 1.5. Section 199.21 of the Health and Safety Code, as added by Assembly Bill No. 403 of the 1985–86 Regular Session, is amended to read:

199.21. (a) Any person who negligently discloses results of a blood test to detect antibodies to the probable causative agent of acquired immune deficiency syndrome to any third party, in a manner which identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1 or 1603.3, as amended by AB 488 of the 1985–86 Regular Session, shall be assessed a civil penalty in an amount not to exceed one thousand dollars ($1,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(b) Any person who willfully discloses the results of a blood test to detect antibodies to the probable causative agent of the acquired immune deficiency syndrome to any third party, in a manner which identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1 or 1603.3, as amended by AB 488 of the 1985–86 Regular Session, shall be assessed a civil penalty in an amount not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(c) Any person who willfully or negligently discloses the results of a blood test to detect antibodies to the probable causative agent of acquired immune deficiency syndrome to a third party, in a manner which identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1 or 1603.3, as amended by AB 488 of the 1985–86 Regular Session, which results in economic, bodily, or psychological harm to the subject of the test, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period not to exceed one year or a fine of not to exceed ten thousand dollars ($10,000) or both.

(d) Any person who commits any act described in subdivision (a) or (b) shall be liable to the subject for all actual damages, including damages for economic, bodily, or psychological harm which is a proximate cause of the act.

(e) Each disclosure made in violation of this chapter is a separate and actionable offense.

(f) The results of a blood test to detect antibodies to the probable causative agent of acquired immune deficiency syndrome, which

identifies or provides identifying characteristics of the person to whom the test results apply, shall not be used in any instance for the determination of insurability or suitability for employment.

(g) "Written authorization," as used in this section, applies only to the disclosure of test results by a person responsible for the care and treatment of the person subject to the test. Written authorization is required for each separate disclosure of the test results, and shall include to whom the disclosure would be made.

(h) Nothing in this section limits or expands the right of an injured subject to recover damages under any other applicable law.

(i) Nothing in this section imposes liability or criminal sanction for disclosure of a blood test to detect antibodies to the probable causative agent of AIDS in accordance with any reporting requirement for a diagnosed case of AIDS by the state department or the Centers for Disease Control under the United States Public Health Services.

(j) The state department may require blood banks and plasma centers to submit monthly reports summarizing statistical data concerning the results of tests to detect the presence of viral hepatitis and antibodies to the probable causative agent of AIDS. This statistical summary shall not include the identity of individual donors or identifying characteristics which would identify individual donors.

(k) "Disclosed," as used in this section, means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic means to any person or entity.

SEC. 2. Section 1603.1 of the Health and Safety Code, is amended to read:

1603.1. (a) Except as provided in this subdivision, no blood or blood components shall be used in vivo for humans in this state, unless the blood or blood components have been tested and found nonreactive for the probable causative agent of acquired immune deficiency syndrome or the blood or blood components are used for research or vaccination programs pursuant to an informed consent.

Additional exceptions to the requirement of this subdivision are as follows:

(1) Frozen red blood cells of a rare type, as determined by the blood bank or plasma center, collected prior to the effective date of this paragraph, for which no specimen is available.

(2) Inventories of blood and blood components collected prior to 60 days after the effective date of this paragraph or the date of licensing of a test by the Federal Drug Administration to determine exposure to the antibodies to the probable causative agent of AIDS, whichever is later.

(3) Blood or blood products released for transfusion in emergency circumstances, as determined by the state department.

(4) Blood used for autologous purposes.

(b) Blood banks and plasma centers shall make laboratory tests of all human whole blood and plasma received to detect the presence

of viral hepatitis and antibodies to the probable causative agent of acquired immune deficiency syndrome in the manner specified in Section 1603.3. If the blood bank or plasma center finds the presence of viral hepatitis, or an antigen thereof, in the blood tested, it shall report that finding, the date of the human whole blood donation, the name, address, and social security number of the person who donated the blood, and the name and address of the blood bank which received the human whole blood from the person and any additional information required by the department, to the department and the county health officer within 72 hours of the confirmation of the presence of viral hepatitis, or an antigen thereof, in the blood tested.

(c) As soon as practicable following diagnosis, a physician shall report to the department and the county health officer the name, date of birth, address, and social security number of all carriers of viral hepatitis under his treatment, the type of viral hepatitis contracted if known, and any additional information required by the department and shall report immediately all transfusion-associated hepatitis and transfusion-associated AIDS cases to the county health officer for investigation.

(d) As soon as practicable following hospitalization, a hospital shall report to the department and to the county health officer the name, date of birth, address, and social security number of all confirmed cases of AIDS carriers, as determined by a person responsible for the care and treatment of a person with AIDS, and all carriers of viral hepatitis hospitalized for treatment of viral hepatitis or AIDS, the name of the hospital, the date of hospitalization, the type of viral hepatitis contracted if known, and any additional information required by the department and shall report immediately all transfusion-associated hepatitis and all confirmed transfusion-associated AIDS cases, as determined by a person responsible for the care and treatment of a person with AIDS, to the county health officer for investigation.

(e) The county health officer shall investigate all transfusion-associated hepatitis cases and transfusion-associated AIDS cases and shall, if possible, trace the sources of human whole blood which was transfused. The county health officer shall report to the department within 72 hours following an investigation the name, date of birth, address, and social security number of carrier donors, possible carrier donors and carriers of viral hepatitis and any additional information required by the department.

(f) The department shall compile two times each month a list of carrier donors, possible carrier donors, and carriers of viral hepatitis and persons who test reactive for antibodies to the probable causative agent of the acquired immune deficiency syndrome and shall distribute the list to blood banks and plasma centers two times each month. The list shall include the name, date of birth, address, and social security number of people who are carrier donors, possible carrier donors and carriers of viral hepatitis and persons reactive for,

the antibody to the probable causative agent of AIDS, and confirmed cases of AIDS, as determined by a person responsible for the care and treatment of a person with AIDS, the date of the human whole blood donation if applicable, the name and address of the blood bank who received the human whole blood donation if applicable, and any other information which the department deems necessary to protect the public health and safety. This list shall be known as the Donor Deferral Register and shall include names of individuals who are indefinitely deferred from blood donations without identifying the reasons for the deferral. The state department may develop guidelines governing the instances when a person is to be removed from the register. These guidelines may include, but shall not be limited to nor be required to include, death of an identified donor or the licensure by the Federal Food and Drug Administration of a new, confirmatory test for AIDS which would allow the state department to more accurately determine if a person should be kept on the registry due to any threat to the state's blood supply that the prospective donor may represent.

(g) The department shall, if possible, contact carrier donors to inform them that they may be carriers of viral hepatitis and should not make blood donations, and shall suggest appropriate treatment alternatives. County health or state department officials shall contact all persons who have confirmed cases of AIDS, as determined by a person responsible for the care and treatment of the person with AIDS, to suggest appropriate treatment alternatives and for the purposes of epidemiological studies and followup.

(h) The department may adopt regulations governing the procedures in this section as it deems necessary to protect the public health and safety.

(i) The state department may replace the test for the antibody to the probable causative agent for AIDS with a superior antibody test, as the state department deems appropriate.

(j) "Plasma center," as used in this chapter, means any place where the process of plasmapheresis is conducted, as defined in Section 1025 of Title 17 of the California Administration Code and includes a place where leukopheresis or platlet pheresis, or both, is conducted.

(k) "AIDS," as used in this chapter, means acquired immune deficiency syndrome.

(*l*) "Blood components", as used in this chapter, means preparations separated from single units of whole blood or prepared for hemapheresis and intended for use as final products for transfusions.

SEC. 3. Section 1603.3 is added to the Health and Safety Code, to read:

1603.3. (a) Prior to a donation of blood or blood components each donor shall be notified in writing of, and shall have signed a written statement confirming the notification of, all of the following:

(1) That the blood or blood components shall be tested for

evidence of antibodies to the probable causative agent of acquired immune deficiency syndrome.

(2) That donors found to have serologic evidence of the antibodies shall be placed on a confidential statewide blood donor deferral register without a listing of the reason for being included on the register.

(3) That the donor shall be notified of the test results in accordance with the requirements described in subdivision (c).

(4) That the donor blood or blood component which is found to have the antibodies shall not be used for transfusion.

(5) That blood or blood components shall not be donated for transfusion purposes by a person if the person has reason to believe that he or she has been exposed to acquired immune deficiency syndrome.

(6) That the donor is required to complete a health screening questionnaire to assist in the determination as to whether he or she has been exposed to acquired immune deficiency syndrome.

(b) A blood bank or plasma center shall incorporate voluntary means of self-deferral for donors. The means of self-deferral may include, but is not limited to, a form with checkoff boxes specifying that the blood donated is for research or test purposes only and a telephone callback system for donors to use in order to inform the blood bank that blood donated should not be used for transfusion.

(c) Blood or blood products from any donor initially found to have serologic evidence of antibodies to the probable causative agent of AIDS shall be retested for confirmation. Only if a further test confirms the conclusion of the earlier test shall the donor be notified of a reactive result by the blood bank or plasma center, as provided in paragraph (1) or (2) of this subdivision.

(1) The state department shall permit a blood bank to inform blood donors of the test result if all of the following apply:

(A) The alternative test sites required pursuant to Article 8 (commencing with Section 1630) are established and operational in the county where the blood bank is located.

(B) The state department has determined that the alternative test sites are functioning in an adequate manner in the county where the blood bank is located and has established a date after which these test sites were functioning in this manner.

After the date determined in category (B) is established, the blood bank shall wait three months. When the three-month period elapses, blood banks may inform a donor of blood or blood components of the test results no sooner than 60 days from the date of donation.

(2) In the case of a plasma center on or after the operative date of this section, a donor donating for the first or second time in any 60-day period shall not be notified of the test result, but upon a third or subsequent donation within that period, the plasma center may notify the donor of the test result.

The state department shall develop permissive guidelines for blood banks and plasma centers on the method or methods to be used

to notify a donor of a test result. Each blood bank or plasma center shall, upon positive confirmation using the best available and reasonable techniques, provide the information to the state department for inclusion in the Donor Deferral Register. Blood banks and plasma centers shall provide the information on donations testing reactive for the antibodies to the probable causative agent of AIDS and carrier donors of viral hepatitis to the department on a single list in the same manner without specification of the reason the donor appears on the list.

(d) The Donor Deferral Register, as described in subdivision (e) of Section 1603.1, shall include names of individuals who are deferred from blood donations without identifying the reasons for deferral.

(e) Each blood bank or plasma center operating in California shall prominently display at each of its collection sites a notice which provides the addresses and phone numbers of sites, within the proximate area of the blood bank or plasma center, where tests provided pursuant to Article 8 (commencing with Section 1630) may be administered without charge.

SEC. 3.5. Section 1603.4 is added to the Health and Safety Code, to read:

1603.4. (a) Notwithstanding Chapter 1.11 (commencing with Section 199.20) of Part 1 of Division 1, as added by Assembly Bill No. 403 of the 1985–86 Regular Session, or any other provision of law, no public entity or any private blood bank or plasma center shall be liable for an inadvertent, accidental, or otherwise unintentional disclosure of the results of a test for the probable causation agent for acquired immune deficiency syndrome or information in the Donor Referral Register.

As used in this section, "public entity" includes, but is not limited to, any publicly owned or operated blood bank or plasma center and the state department.

(b) Neither the state department nor any blood bank or plasma center, including a blood bank or plasma center owned or operated by a public entity, shall be held liable for any damage resulting from the notification of test results, as set forth in paragraph (3) of subdivision (a) of, or in subdivision (c) of, Section 1603.3.

SEC. 4. Article 8 (commencing with Section 1630) is added to Chapter 4 of Division 2 of the Health and Safety Code, to read:

Article 8. Antibody Testing

1630. The Legislature finds and declares it is of great benefit to the public health and essential to the protection of safe blood and blood components available for transfusion to provide testing for the presence of antibodies to the probable causative agent of acquired immune deficiency syndrome (AIDS) as a function separate from the donation of blood or blood components.

1631. The director shall, in order to protect the public health and in order to make blood and blood components safe for transfusion,

designate counties which shall establish alternative testing sites, within the funds available, pursuant to this article. When designating a county pursuant to this section, the director may consider whether the county contains a permanent operational blood bank. All alternative test sites, established pursuant to this article, shall be under the supervision of a physician and surgeon or be a clinic or health facility licensed by the state department.

1632. (a) Each county, designated by the director, shall make the test available within its jurisdiction without charge, in an accessible manner and the tests shall be made available by the county on a confidential basis through use of a coded system with no linking of individual identity with the test request or results. The number and location of sites in each county designated by the director shall be approved by the director. The test shall be made available by the county either directly or by contract with a physician and surgeon or with any clinic or health facility licensed by the state department. Neither the county nor anyone else administering the test described in this article, shall ask for the name, social security number, or any other information which could reveal the identity of the individual who takes the test. Each alternative test site shall make available confidential information and referral services, within the funds available, to individuals who seek testing. A county may subcontract with individuals or entities to provide information and referral services.

All alternative test sites shall provide a referral list of physicians and surgeons or clinics knowledgeable about AIDS, to all persons who have any known risk factor for AIDS, especially those who have a reactive antibody test, for further information and explanation of the test results and for medical evaluation.

At a minimum, individuals seeking testing shall be informed about the validity and accuracy of the antibody test before the test is performed. All testing site personnel shall be required to attest to having provided the above information. Furthermore, all individuals who are tested at the sites established by this article shall be given the results of this test in person. All sites providing antibody testing pursuant to this article shall have a protocol for referral for 24-hour inpatient and mental health services. All individuals awaiting test results and all persons to whom results are reported shall be informed of available crisis services and shall be directly referred, if necessary.

Each county, designated by the director, shall be required to submit a plan to the state department within 45 days after the effective date of this section which details where testing and pretest and posttest information and referral will be provided and the qualifications of the staff who will be performing the services required by this article. The state department shall make training available, especially to smaller counties.

(b) The state department shall establish a reimbursement process for counties within 30 days after the effective date of this section for

the following services:

(1) Informing test applicants on the test's reliability and validity.

(2) Administration of tests, analysis of test samples, and costs associated with the laboratory work required by this antibody test.

(3) Short-term information and referral sessions, of no more than one visit per person tested for the purpose of transmitting the person's test results and, as requested, for referral to available followup services.

The state department shall establish the amounts to be reimbursed for each of these services, but the amounts shall be established at a level to ensure that the purposes of this article are carried out. Reimbursements shall be made for each service provided.

(c) The state department may replace the test for the antibody to the probable causative agent for AIDS with a superior antibody test, as the state department deems appropriate.

(d) The director may grant a waiver to a county from the requirements of this article if the county petitions the director for the waiver and the director determines that the waiver is consistent with the purposes of this article.

(e) A participating county or the state department may accept grants, donations, and in-kind services for purposes of carrying out this article.

SEC. 5. Tests to be performed for the detection of antibodies to the probable causative agent for AIDS shall only be performed by laboratories specifically approved by the State Department of Health Services to perform this test.

SEC. 6. The sum of five million dollars ($5,000,000) is hereby appropriated from the General Fund to the State Department of Health Services for purposes of administering Article 8 (commencing with Section 1630) of Chapter 4 of Division 2 of the Health and Safety Code and making reimbursements to counties pursuant to Section 1632 of the Health and Safety Code. In addition, the state department shall use up to two hundred seventy-five thousand dollars ($275,000) of this appropriation for the development and procurement of materials about the antibody test, as set forth in Article 8, and for the distribution of this material for use in the alternative sites established pursuant to Article 8.

All federal moneys received by either the state department or by a county for the purposes enumerated in this section shall be used prior to the moneys appropriated by this section.

SEC. 6.7. Sections 2 and 3 of this act shall become operative 60 days after the effective date of this act or the date of the licensing of a test by the Federal Drug Administration to determine exposure to the antibodies to the probable causative agent of AIDS, whichever is later.

SEC. 7. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the

claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 8. 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. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Since a blood test to detect the antibodies to the probable causative agent of acquired immune deficiency syndrome has recently been licensed by the federal government, in order to safeguard the blood supply and to provide for a testing, information, and referral system for persons who suspect they may have been exposed to AIDS, it is necessary for this act to take effect immediately.

CHAPTER 24

An act to amend Section 9042 of the Business and Professions Code, relating to social workers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 3, 1985 Filed with Secretary of State April 4, 1985.]

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

SECTION 1. Section 9042 of the Business and Professions Code is amended to read:

9042. Each applicant shall furnish evidence satisfactory to the board that he or she complies with all of the following requirements:

(a) Is at least 21 years of age.

(b) Has received a master's degree from an accredited school of social work.

(c) Has had two years of full-time post-masters' experience, acceptable to the board, in the use of psychosocial and psychotherapeutic methods and measures in a hospital, clinic, or agency. One year of such experience shall have been in a hospital, clinic, or agency in which the applicant, under professional supervision or with professional consultation or both, has employed such methods or measures. The board may establish standards for equivalent means of meeting the requirements of this subdivision. Such standards shall insure that the performance of services authorized by Section 9047 by persons complying with such standards shall be done in a manner which protects the health and welfare of the persons receiving such services.

(d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480.

(e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after January 1, 1986.

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 assure that the intent of the Legislature regarding the enactment of Chapter 1149 of the Statutes of 1984 is effectively carried out, it is necessary that this act go into immediate effect.

CHAPTER 25

An act to amend Section 19614.2 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 3, 1985 Filed with Secretary of State April 4, 1985]

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

SECTION 1. Section 19614.2 of the Business and Professions Code is amended to read:

19614.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, the California Exposition and State Fair, or a district or county fair, or an association conducting its meeting pursuant to Section 19549.1, may deduct from the total amount handled in daily double, quiniela, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the current year of the fair meet. Of the amount deducted, if any, 52 percent shall be distributed as additional purses and 48 percent shall be distributed as additional commissions.

(b) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board the amount of the deduction shall not be changed during the course of the meeting.

(c) From the amount deducted for thoroughbred purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning at the meeting. The sum shall be deposited within seven days of the close of the meeting with the official registering agency of California thoroughbred racehorses in a depository approved by

the board. After deduction of expenses, not to exceed 5 percent, and approval of all the deductions by the board, the fund shall then be distributed on a prorated percentage basis of first moneys earned to the persons owning California-bred thoroughbreds at the time of their wins, in accordance with the qualifying standards specified in subdivision (c) of Section 19617.

(d) From the amount deducted for quarter horse purses under subdivision (a), a sum equal to 25 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning or placing at the meeting. The premiums shall be distributed within 30 days of the date on which the funds are received by the officially recognized organization designated to administer this subdivision on a prorated percentage basis of first and second place moneys earned to persons owning California-bred quarter horses at the time of their wins or places in races having a total purse value equal to or in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year.

The board shall designate the officially recognized organizations representing quarter horse horsemen to administer this subdivision and to distribute premiums.

The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

(e) From the amount deducted for Appaloosa horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owner's premiums for California-breds winning at the meeting. The premiums shall be distributed within 30 days of the close of the meeting on a prorated percentage basis of first moneys earned to persons owning California-bred Appaloosa horses at the time of their wins in races having a total purse value in excess of the average purse value for races, other than stakes races, won by California-bred horses during the previous year. The board shall designate the officially recognized organization representing Appaloosa horsemen to administer this subdivision and to distribute premiums. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total awards fund.

SEC. 2. This act shall become operative January 1, 1985.

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

In order for the changes proposed by this act to be effective during the next racing season, it is necessary that the act take effect immediately.

CHAPTER 26

An act to add Title 14 (commencing with Section 95000) to, to repeal Sections 95004, 95005, and 95006 of, to repeal Article 2 (commencing with Section 95010) of Chapter 1 of Title 14 of, and to repeal Chapter 2 (commencing with Section 95030) and Chapter 3 (commencing with Section 95039) of Title 14 of, the Government Code, relating to individuals with exceptional needs, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 9, 1985 Filed with Secretary of State April 9, 1985.]

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

SECTION 1. Title 14 (commencing with Section 95000) is added to the Government Code, to read:

TITLE 14. CALIFORNIA EARLY INTERVENTION SERVICES ACT

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

Article 1. General Provisions

95000. This title may be cited as the California Early Intervention Services Act.

95001. The Legislature finds that handicapped and high-risk infants now survive the newborn period due to greatly improved surgical and medical care services; however, in many communities, services which provide the careful nurturing and stimulation that these infants need to develop to their potential are not available. The Legislature hereby finds and declares that individualized early intervention services for infants, who are at high risk or who have a handicapping condition, and for their families, which provide educational, developmental, health, and social services with active parent involvement, can significantly reduce the potential impact of many handicapping conditions and positively influence later development when the child reaches school age.

The Legislature further finds that infants have unique needs and therefore require both a unique service delivery model, which may be different from any system currently in place in California, and unique program and personnel standards specific to the needs of infants who are at high risk or who have a handicapping condition and their families.

The Legislature further acknowledges that early intervention services are cost-effective, in that these services frequently make productive citizens of children and eliminate the far greater costs of

long-term remedial treatment for, and unnecessary lifelong dependency on others.

95002. It is the intent of the Legislature that those agencies which possess the greatest expertise in providing early intervention services to infants and their families in the past continue to provide these services. It is the further intent of the Legislature that existing early intervention services rendered by state and local public agencies and private agencies be coordinated and maximized through interagency services with specific state and local government responsibilities.

95003. It is the intent of the Legislature that the State Department of Health Services, the State Department of Developmental Services, the State Department of Mental Health, the State Department of Social Services, and the State Department of Education work together to provide coordinated, interagency services to handicapped and high-risk infants and their families.

95004. It is the intent of the Legislature that the interagency task force established pursuant to this title not duplicate the effort of state or local agencies which are required to plan for or provide early intervention services.

This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

95005. (a) It is the intent of the Legislature that recommendations regarding the delivery of early intervention services take into consideration the experience of the demonstration projects established pursuant to Chapter 3 (commencing with Section 95039), and that no changes in the delivery of those services occur without explicit legislative authorization.

(b) It is the purpose of this title to carry out and make effective the findings and intent of the Legislature and, to that end, to establish a comprehensive and coordinated system for delivery of early intervention services to infants and their families.

This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

95006. It is the intent of the Legislature that early intervention services funded by state moneys shall be maintained at, or above, the 1984–85 fiscal year funding level.

This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

Article 2. Definitions

95010. Unless the context otherwise requires, the definitions prescribed by this article apply to the construction of this title.

95011. "Crisis intervention services" means counseling and resource services provided to families of infants determined to be at risk by a physician or other qualified professional.

95012. "Early intervention services" means those educational, developmental, health, and social services which are essential for an infant's development. These services include, but are not limited to, early identification, evaluation, and assessment; early educational, developmental, and therapeutic services, including speech and language, physical, and occupational therapy, visual services, audiological services, crisis intervention services, and transportation services. Early intervention services also include services to the family which are essential to the infant's development, such as respite care, psychosocial support, health and nutritional consultation, and parent education. These services may vary in number and intensity, according to the individual infant and family as expressed in the individualized infant service plan. Early intervention services do not include surgical and hospitalization services, routine medical care, or residential care services.

95013. "Infant" means a child from the ages of birth to three years.

95014. Infants eligible for early intervention services provided by demonstration projects pursuant to this title are those who meet one of the following:

(a) Infants who have a handicapping condition as defined in paragraph (1) of Section 1401 of Title 20 of the United States Code, or in paragraph (7) of Section 6001 of Title 42 of the United States Code, as those provisions read on January 1, 1984.

(b) Infants who are at high risk of developing a handicapping condition, as defined in guidelines approved by the Secretary of Health and Welfare for inclusion in the request for proposals for demonstration projects. The guidelines shall conform to the eligibility guidelines utilized by the regional centers operated under the jurisdiction of the State Department of Developmental Services and the Maternal and Child Health Branch of the State Department of Health Services.

This article shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 2. INTERAGENCY TASK FORCE ON EARLY INTERVENTION SERVICES

95030. The infant subcommittee of the State Planning Grant Advisory Committee, which also serves as the early intervention

subcommittee of the Prevention Task Force of the State Health and Welfare Agency, shall serve as the Interagency Task Force on Early Intervention Services.

95031. Membership of the task force provided for in Section 95030 shall, when the task force acts pursuant to this title, include all of the following:

(a) At least two parents of children who have received or are receiving early intervention services.

(b) Public providers and private providers of health, developmental, and educational early intervention services.

(c) Representatives from the State Department of Education, the State Department of Health Services, the State Department of Developmental Services, the State Department of Mental Health, and the State Department of Social Services.

95032. Staff to the task force shall be selected by the Secretary of Health and Welfare and the Superintendent of Public Instruction, jointly, taking into consideration the recommendations of the task force named pursuant to Section 95030.

95033. The duties of the interagency task force shall include, but not be limited to, all of the following:

(a) The submission of recommendations pertaining to the operation of the interagency demonstration projects to the Secretary of Health and Welfare and the Superintendent of Public Instruction regarding all of the following:

(1) Interagency demonstration projects as provided in Section 95040. The interagency demonstration projects shall represent various administrative structures.

(2) Interagency monitoring, data collection, and program evaluation procedures.

(3) A definition of "high risk" which conforms with the eligibility guidelines utilized by the State Department of Health Services' Maternal and Child Health Branch and the regional centers operated under the jurisdiction of the State Department of Developmental Services.

(4) The need for waivers of state or federal law, as appropriate, to facilitate operation of the demonstration projects.

(b) On or before July 1, 1987, the submission of interim recommendations and on or before November 1, 1987, final recommendations to the Secretary of Health and Welfare and the Superintendent of Public Instruction regarding all of the following:

(1) A plan to avoid the duplication of the efforts of state and local agencies which have the responsibility to plan for or provide early intervention services.

(2) Procedures for assessing infant and family needs on a statewide basis, and for coordinating all available federal, state, and local resources to meet those needs.

(3) An interagency method of providing early intervention services to infants and their families.

(4) Procedures for assessing personnel needs on a statewide basis,

and strategies to meet those needs.

(5) Incentives to be offered for private sources to maintain present commitments and to assist in developing new programs.

(6) A uniform and appropriate system to ensure procedural safeguards, including, but not limited to, complaint filing and due process hearing procedures, for all infants and their parents who receive early intervention services.

(7) A procedure for the provision of technical assistance.

(8) A statewide standard for programs and personnel.

(9) A funding mechanism. It is the intent of the Legislature that this mechanism be developed with the cooperation of the Department of Finance and the Legislative Analyst.

(10) A structure to administer early intervention services which address the unique characteristics of the area served by the project.

(11) The need for waivers of federal law, as appropriate, to overcome barriers to interagency early intervention services.

(c) The evaluation of the interagency demonstration projects selected pursuant to Section 95039. The evaluation shall commence January 1, 1986, and shall be completed by January 1, 1988. The evaluation shall include, but not be limited to, a comparison of all of the following elements of the interagency demonstration projects:

(1) Administrative structure.

(2) Case management systems.

(3) Interagency coordination models.

(4) The efficiency of delivery systems.

(5) The potential for short-term and long-term cost savings to the departments listed in subdivision (c) of Section 95031.

95034. (a) The first meeting of the interagency task force shall be convened by the Secretary of Health and Welfare and the Superintendent of Public Instruction on or before April 15, 1985. The interagency task force shall meet at least six times each year.

(b) The interagency task force may consult with additional persons, advisory bodies, and government agencies, as necessary.

95035. (a) All members of the interagency task force shall serve without compensation, except that members, other than state employees, shall receive their actual and necessary expenses incurred in the performance of their duties and responsibilities, including traveling expenses, and except that travel expenses of state employees shall be incurred by their respective departments.

(b) Each department specified in subdivision (c) of Section 95031 shall delegate staff time and provide for necessary expenses from its existing budget for its staff members assisting the interagency task force.

(c) The expenses of members other than state employees shall be borne by the task force through its existing funds as of the effective date of this section.

95037. This chapter shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the

dates on which it becomes inoperative and is repealed.

CHAPTER 3. INTERAGENCY DEMONSTRATION PROJECTS

95039. The Secretary of Health and Welfare and the Superintendent of Public Instruction, or their designees, shall meet as necessary to do all of the following:

(a) Select interagency demonstration projects to receive funding as provided in Section 95040 by December 1, 1985.

(b) Review and act on recommendations of the interagency task force pursuant to Section 95033 as deemed appropriate.

(c) Prepare recommendations to the policy and fiscal committees of the Legislature and to the Governor. Interim recommendations shall be submitted by September 1, 1987, and final recommendations shall be submitted by January 1, 1988. These recommendations shall take into consideration the evaluation conducted pursuant to subdivision (c) of Section 95033 and the recommendations submitted by the interagency task force pursuant to Section 95033.

(d) Foster interagency coordination and commitment to provide early intervention services for infants and their families.

95040. (a) The interagency task force established pursuant to Chapter 2 (commencing with Section 95030) shall solicit proposals on or before July 15, 1985, for the establishment of interagency demonstration projects to be conducted from January 1, 1986, to June 30, 1988, inclusive, for the purpose of exploring effective means of coordinating and delivering interagency early intervention services for infants and their families within specific geographic boundaries. Both existing and new programs which serve handicapped and high-risk infants shall be eligible to be considered. The interagency task force shall submit recommendations to the Secretary of Health and Welfare and the Superintendent of Public Instruction regarding which proposals should receive funding pursuant to this chapter.

(b) Taking into consideration the recommendations submitted by the interagency task force pursuant to subdivision (a), the Secretary of Health and Welfare and the Superintendent of Public Instruction shall select three interagency demonstration projects to receive funding pursuant to this chapter. Both existing and new programs which serve handicapped and high-risk infants shall be eligible to be selected. In order to be eligible to receive funding pursuant to this chapter, an interagency demonstration project shall meet all of the requirements established in this chapter.

95041. (a) Interagency demonstration projects shall ensure that an interdisciplinary team, which includes the infant's parent or guardian, develops a service plan for each infant to meet the infant's educational, developmental, health, and social service needs. The plan shall be based on the assessment and recommendations of appropriately qualified professionals and of the infant's parent or guardian.

(b) Interagency demonstration projects shall provide early

intervention services through interagency coordination, and shall develop written procedures for the provision of those coordinated services. These procedures shall include, but not be limited to, all of the following:

(1) A description of existing public and private programs and early intervention services available to infants and their families within the area covered by the interagency demonstration project, including, but not limited to, the number of infants and their families served and the type of services provided.

(2) An assessment of any remaining unmet needs.

(3) A description of the intake procedure, including public awareness and outreach activities.

(4) A description of the case management system.

(5) A description of the process for coordinating all of the following:

(A) Referral services among agencies.

(B) Evaluation and assessment services.

(C) The development, implementation, and annual review of each infant's service plan by an interdisciplinary team.

(6) A description of placement alternatives, including programs which foster integration opportunities for infants and their families receiving early intervention services.

95042. (a) Each interagency demonstration project shall include the participation of local public agencies and private agencies representing health, mental health, social services, education, and developmental services, as appropriate, and parents of infants receiving or having received early intervention services. The local agencies participating in the demonstration project shall determine all of the following:

(1) A specific administrative structure to plan and maintain the coordination of services.

(2) The specific geographic area served by the interagency demonstration project.

(b) Each interagency demonstration project shall make the procedures developed pursuant to subdivision (b) of Section 95041 available to the public, including local governing boards and advisory committees.

95043. Each interagency demonstration project shall ensure that applicable requirements prescribed by the federal Education for All Handicapped Children Act of 1975 (20 U.S.C. Sec. 1232, P.L. 94-142), as amended, are established and maintained by the agencies providing early intervention services as part of the interagency demonstration project.

95044. Each interagency demonstration project shall submit a comprehensive written report to the interagency task force by June 1 of each year of operation. The report shall include, but not be limited to, recommendations regarding the implementation of coordinated interagency early intervention services. These recommendations shall include, but not be limited to, all of the

following:

(a) Identification of any barriers to coordination of services imposed by federal or state law, and recommended solutions to those barriers, including requests for waivers.

(b) Suggested definitions and eligibility criteria for early intervention services.

95045. (a) The sum of eighteen thousand five hundred dollars ($18,500) is hereby appropriated from the General Fund to the Secretary of Health and Welfare for the 1984–85 fiscal year for provision of administrative staff to the task force.

(b) The sum of twenty thousand dollars ($20,000) is hereby appropriated, without regard to fiscal years, from the General Fund to the Secretary of Health and Welfare for provision of a third party evaluation of the demonstration projects. These funds shall be available for encumbrance only during the 1985–86, 1986–87, and 1987–88 fiscal years.

(c) The sum of one hundred forty-five thousand dollars ($145,000) is hereby appropriated from the General Fund to the Secretary of Health and Welfare for the 1985–86 fiscal year as follows:

(1) Seventy thousand dollars ($70,000) for provision of administrative staff to the task force.

(2) Seventy-five thousand dollars ($75,000) for grants to the demonstration projects for provision of administrative staff.

(d) It is the intent of the Legislature that funds for provision of administrative staff to the task force and grants for the demonstration projects for provision of administrative staff be provided through appropriations in the Budget Act for the 1986–87 and 1987–88 fiscal years.

95046. This chapter shall become inoperative on July 1, 1988, and as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

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 provide early intervention services for infants and their families at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 27

An act to amend Section 1636 of the Business and Professions Code, relating to dentistry, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 19, 1985 Filed with Secretary of State April 22, 1985.]

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

SECTION 1. Section 1636 of the Business and Professions Code is amended to read:

1636. (a) Notwithstanding subdivision (b) of Section 1628, a person who has been issued a degree of doctor of dental medicine or doctor of dental surgery by a foreign dental school listed by the World Health Organization, or by a foreign dental school approved by the Board of Dental Examiners, shall be eligible for examination as provided in this section upon complying with subdivisions (a) and (c) of Section 1628 and furnishing all of the following documentary evidence satisfactory to the board, that:

(1) He or she has completed in a dental school or schools a resident course of professional instruction in dentistry for the full number of academic years of undergraduate courses required for graduation.

(2) Subsequent thereto, he or she has been issued by the dental school, a dental diploma or a dental degree, as evidence of the completion of the course of dental instruction required for graduation.

(b) An applicant who is a graduate of a foreign dental school accredited by a body which has a reciprocal accreditation agreement with any commission or accreditation agency whose findings are accepted by the board shall be exempt from the qualifying examination provided for in paragraph (2) of subdivision (c).

(c) Examination by the board of a foreign-trained dental applicant shall be a progressive examination given in the following sequence:

(1) Examination in writing which shall be comprehensive and sufficiently thorough to test the knowledge, skill, and competence of the applicant to practice dentistry, and both questions and answers shall be written in the English language.

The written examination may be the National Board of Dental Examiners' examination. A foreign-trained applicant who passes the written examination shall be permanently exempt from retaking the examination.

Those applicants who have passed the California written examination are permanently exempt from retaking any written examination, except any examination required for continuing education purposes.

(2) Demonstration of the applicant's skill in restorative technique. An applicant shall obtain a minimum grade of 75 percent in each subsection of the restorative technique examination to be deemed to have passed the examination. However, an applicant who obtains a grade of 85 percent in any subsection of the examination is exempt from retaking the subsection for two years following the

date of the examination in which a grade of 85 percent was obtained. Every applicant who passes the entire restorative technique examination is permanently exempt from retaking the examination.

(d) An applicant who has successfully completed the written examination and the restorative technique examination shall be eligible to take and shall pass the examinations in diagnosis-treatment planning, prosthetic dentistry, diagnosis and treatment of periodontics, and operative dentistry in the identical manner in which the examinations are taken by and administered to other dental applicants. Exemptions in the examinations shall be applied to foreign-trained applicants in the same manner as they are applied to other dental applicants.

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 require the State Board of Dental Examiners to interpret the law as it relates to exempting graduates of foreign dental schools in accordance with its past policies. In order to achieve its intended results, it is necessary that this act go into immediate effect.

CHAPTER 28

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

[Approved by Governor April 23, 1985 Filed with Secretary of State April 24, 1985.]

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

SECTION 1. The Legislature hereby finds and declares that the Institute for Computer Technology, as California's first public institute devoted exclusively to education and training in computer technology, is unique, innovative, and a premier program in a pioneering state.

The Legislature further finds and declares that the Institute for Computer Technology has received equipment and services from private industry exceeding $800,000 in value, and constitutes an excellent model of partnership between public and private entities.

SEC. 2. The Legislative Analyst is directed to conduct an evaluation of the Institute for Computer Technology and, no later than September 6, 1985, to submit a report to the Legislature that shall address the following:

(a) The institute's operations, pursuant to the purposes set forth in Article 8 (commencing with Section 52480) of Chapter 9 of Part 28 of the Education Code.

(b) The level of private sector participation in, and support of, the operations of the institute.

(c) The feasibility of the institute's participation in the development and field testing of its curricula, and the training of teachers on a statewide basis.

SEC. 3. The sum of sixty thousand dollars ($60,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation to the Institute for Computer Technology for the 1984–85 fiscal year for the purposes set forth in Article 8 (commencing with Section 52480) of Chapter 9 of Part 28 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 that the Institute for Computer Technology may be funded until June 30, 1985, to continue its unique role in providing education and training in the area of computer technology, it is necessary that this act take effect immediately.

CHAPTER 29

An act to amend Sections 13961.1, 13962, and 13965 of the Government Code, relating to victims of crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 25, 1985. Filed with Secretary of State April 26, 1985.]

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

SECTION 1. Section 13961.1 of the Government Code is amended to read:

13961.1. (a) An emergency award shall be available for a victim of a crime if any of the following occur as a result of the crime:

(1) The victim incurs loss of income or support.

(2) The victim requires emergency medical treatment.

(b) Emergency award application forms shall be provided by the board upon request of the applicant. The board shall make available the application forms through all means at its disposal.

(c) The board may grant an emergency award based solely on the application of the victim. Disbursements of emergency awards funds shall be made within 30 business days of application. The board may refuse to grant an emergency award where it has reason to believe that the applicant will not qualify for an award for assistance under this article. The board may delegate authority to designated staff persons, who will use guidelines established by the board, to grant emergency awards. By mutual agreement between the staff of the

board and the applicant or the applicant's representative, the staff of the board or the victim's representative may take additional 10-day periods to verify the emergency award claim and make payment.

(d) If the applicant does not complete the application for a grant or, if, upon final disposition of the victim's claim under this article, it is found that the victim is not eligible for assistance from the board, the victim shall reimburse the board for the emergency award pursuant to an agreed upon repayment schedule. If upon final disposition of the victim's application, the board grants assistance to the claimant, the amount of the emergency award shall be deducted from the final award of compensation granted to the victim; and, if the amount of the grant is less than the amount of the emergency award, the excess amount shall be repaid according to an agreed upon repayment schedule. Final disposition for the purposes of this section shall mean the final decision of the board with respect to the victim's application for assistance, before any appellate action is instituted. If an application for an emergency award is denied, the board shall notify the applicant in writing of the reasons for denial.

(e) The amount of the emergency award shall be dependent upon the immediate needs of the victim, as evidenced by the victim's loss of income or support and losses incurred as a direct result of the crime before filing or reasonably anticipated during the first 90 days after the initial filing of an application. In no event shall the amount of the emergency award exceed one thousand dollars ($1,000).

(f) The emergency award application shall require only the following:

(1) The name, address, and telephone number of the victim.

(2) A brief description of the nature and circumstances of the crime, including the date and location.

(3) The date the crime was reported to a law enforcement agency and the name and address of such agency.

(4) The name, address, and telephone number of the employer or self-employing entity, the loss of income or support to date and estimate of future loss.

(5) The nature of the injury and the name, address, and telephone number of medical providers and the cost of medical care incurred to date.

(6) A statement that in the event the victim is denied assistance under this article or the final award is less than the emergency award, the applicant will be required to repay the excess amount.

(7) The applicant's signature and a statement that the victim was a resident of the state on the date of the crime and that the information is supplied under penalty of perjury, violation of which is punishable by six months in the county jail.

(8) The board shall report to the Legislature annually on the advances which became uncollectible in prior years.

SEC. 2. Section 13962 of the Government Code is amended to read:

13962. (a) The staff of the board shall appoint a clerk to review

all applications for assistance in order to insure that they are complete. If the application is not complete, it shall be returned to the victim with a brief statement of the additional information required. The victim, within 30 days of receipt thereof, may either supply the additional information or appeal such action to the board which shall review the application to determine whether or not it is complete.

(b) If the application is accepted, it shall be verified promptly by the staff of the board. The verification process shall include sending supplemental forms to all hospitals, physicians, law enforcement officials and other interested parties involved, verifying the treatment of the victim, circumstances of the crime, amounts paid or received by or for the victim and other pertinent information as may be deemed necessary by the board. Verification forms shall be provided by the board and shall be returned to the board within 10 business days. The board shall include on the verification forms reference to this section with respect to the prompt return of the verification forms. The board, thereupon, shall consider the application at a hearing at a time and place of its choosing. The board shall notify all interested persons not less than five days prior to the date of the hearing. If the application is accepted by the board as fully verified, the board shall process the claim within 90 days, including payment on an approved claim.

(c) The victim shall cooperate with the staff of the board or the local victim center in the verification of the information contained in the application. Failure to cooperate shall be reported to the board, which, in its discretion, may reject the application on this ground alone.

(d) Hearings shall be held in various locations with the frequency necessary to provide for the speedy adjudication of the applications. If the applicant's presence is required at the hearing, the board shall consider convenience to the applicant in scheduling the locations. If necessary, the board shall delegate the hearing of applications to hearing examiners.

(e) The board may contract with local victim centers to provide verification of claims processed by the centers pursuant to conditions stated in subdivision (b).

SEC. 3. Section 13965 of the Government Code is amended to read:

13965. (a) If the application for assistance is approved, the board shall determine what type of state assistance will best aid the victim. The board may take any or all of the following actions:

(1) Authorize a cash payment to or on behalf of the victim equal to the pecuniary loss attributable to medical or medical-related expenses directly resulting from the injury.

(2) Authorize a cash payment to the victim equal to the pecuniary loss resulting from loss of wages or support directly resulting from the injury.

(3) Authorize cash payments to or on behalf of the victim for job

retraining or similar employment-oriented rehabilitative services.

(4) The total award to or on behalf of the victim shall not exceed twenty-three thousand dollars ($23,000).

(b) Assistance granted pursuant to this article shall not disqualify an otherwise eligible victim from participation in any other public assistance program.

(c) Cash payments made pursuant to this article may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of assistance according to need, subject to the maximum limit of twenty-three thousand dollars ($23,000).

(d) The board may also authorize payment of attorney's fees representing the reasonable value of legal services rendered to the applicant, but not to exceed 10 percent of the amount of the award, or five hundred dollars ($500), whichever is less.

(e) No attorney shall charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this article except as awarded under this section.

(f) The maximum cash payments authorized in subdivision (a) shall be increased to forty-six thousand dollars ($46,000) if federal funds for such increases are available.

SEC. 4. The provisions of Sections 1 and 3 of this act shall be given retroactive effect to January 1, 1985, so that claims of victims filed between that date and the effective date of this act shall not be prejudiced by the changes in law occurring during that period.

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 restore provisions establishing necessary emergency award procedures and more complete restitution of victims of violent crimes for losses suffered as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 30

An act to amend Sections 1140, 1142, 1177, 1180, 1181, 1182, 1183, 1200, and 1202 of, and to add Section 1142.5 to, the Harbors and Navigation Code, relating to pilots, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 25, 1985. Filed with Secretary of State April 26, 1985.]

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

SECTION 1. Section 1140 of the Harbors and Navigation Code is amended to read:

1140. (a) It is the intent of the Legislature to provide for a unified system of state regulated bar and inland pilotage for the Bays of San Francisco, San Pablo, and Suisun.

(b) In order to carry out the unification of pilotage without interfering with the employment of presently operating inland pilots, those pilots operating as inland pilots may continue to do so in accordance with Section 1142, but it is the intent of the Legislature that no person shall hold both a pilot license and an inland pilot license concurrently.

(c) The Legislature finds and declares that unified pilotage will be beneficial to the safety of people, vessels, and property using those bays.

(d) The Legislature further finds and declares that unified systems of regulated pilotage are common to the ports of the world and are most familiar to, and best able to serve, both foreign and domestic vessels.

SEC. 2. Section 1142 of the Harbors and Navigation Code is amended to read:

1142. (a) The board shall issue an inland pilot license to those existing inland pilots who apply for the license on or before March 31, 1985.

(b) Each inland pilot license shall be for a period of one year and may be renewed upon application and the applicant's passing of the physical examination required in Section 1176.

(c) An inland pilot license shall not be renewed if the pilot possessing the license does not actively pilot vessels for any consecutive period of one year, unless the board determines that the pilot has presented satisfactory proof of medical disability during that period or unless the board has granted the pilot a leave of absence without pay during that period.

(d) An inland pilot shall at all times hold an active and proper license to pilot vessels on the waters on which the pilot operates.

(e) The board may revoke or suspend the license of any inland pilot who does not use proper equipment or who operates on territorial waters not described in the license. The suspension or revocation of licenses under this section is governed by Article 2 (commencing with Section 1180) of Chapter 4.

SEC. 2.5. Section 1142.5 is added to the Harbors and Navigation Code, to read:

1142.5. An existing inland pilot may apply for both a pilot license under Section 1141 and an inland pilot license under Section 1142. If the applicant qualifies for both, the board shall issue a pilot license. The applicant may, however, surrender the pilot license and receive in lieu thereof an inland pilot license. The surrendered pilot license may not be reissued to the applicant once surrendered.

SEC. 3. Section 1177 of the Harbors and Navigation Code is amended to read:

1177. On or before March 31, 1985, all pilots licensed pursuant to this division, other than pilots retiring not later than December 31, 1988, shall have proper federal endorsements allowing them to pilot on the high seas and on all waters of the Bays of San Francisco, San Pablo, and Suisun and the tributaries thereof, except for the Ports of Sacramento and Stockton.

SEC. 4. Section 1180 of the Harbors and Navigation Code is amended to read:

1180. When, in the opinion of the board, there is reasonable cause to believe that the public interest requires that a pilot or inland pilot be summarily suspended pending hearing on charges of misconduct which include any of the causes for suspension or revocation specified in Section 1181 or when the board has information which leads it to believe that a pilot or inland pilot has become unable to comply with the standards of health or physical condition requisite to a pilot's or inland pilot's duties, the board may, without hearing, temporarily suspend the license of the pilot or inland pilot for not exceeding 40 days pending hearing and decision on the charges. Unless an accusation on the charge is served on the pilot or inland pilot as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, prior to the close of the sixth day after the suspension becomes effective, the temporary suspension terminates at the close of the sixth day.

SEC. 5. Section 1181 of the Harbors and Navigation Code is amended to read:

1181. The license of a pilot or inland pilot may be revoked or suspended before its expiration only for any of the following reasons:

(a) Neglect, for 30 days after it becomes due, to render an account to the board of all money received for pilotage.

(b) Neglect, for 30 days after it becomes due, to pay over to the board the 5 percent of all pilotage money received.

(c) Rendering to the board a false account of pilotage received.

(d) Absence from duty for more than one month at any one time without leave granted by the board, unless sickness or personal injury causes the absence. This subdivision does not apply to inland pilots.

(e) Refusing to exhibit the pilot or inland pilot license when requested to do so by the master of any vessel boarded.

(f) Intoxication or being under the influence of any substance or combination of substances which so affects the nervous system, brain, or muscles as to impair, to an appreciable degree, the ability to conduct the duties of a pilot or inland pilot while on duty.

(g) Negligently, ignorantly, or willfully running any vessel on shore, or otherwise rendering it liable to damage, or otherwise causing injury to persons or damage to property.

(h) Willful violation of the rules and regulations adopted by the board for the government of pilots or inland pilots.

(i) Inability to comply with the standards of health or physical condition requisite to the duties of a pilot or inland pilot, but in that case the burden of proving compliance with these standards is upon

the licensee, unless prior to the hearing the licensee takes and passes those physical tests or examinations as would be required under the rules of the board upon application for renewal of the license.

SEC. 6. Section 1182 of the Harbors and Navigation Code is amended to read:

1182. If, after a hearing, the board finds that the pilot or inland pilot is guilty of any misconduct sufficient for deprivation of the license, the board shall revoke or suspend the license of the pilot or inland pilot. The order shall be entered of record in the minutes by the secretary. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 7. Section 1183 of the Harbors and Navigation Code is amended to read:

1183. Upon notification of nonrenewal of the license, a pilot or inland pilot is entitled to a trial and hearing in the same manner that other charges and accusations against pilots and inland pilots are tried.

In every case of nonrenewal, suspension, or revocation of the license of a pilot or inland pilot for cause, the final decision of the board is subject to judicial review in accordance with law, and the court shall exercise its independent judgment on the evidence.

SEC. 8. Section 1200 of the Harbors and Navigation Code is amended to read:

1200. The board shall make recommendations to the Legislature on the rates for pilotage which should be established pursuant to Sections 1190 to 1193, inclusive.

The board shall, from time to time, review pilotage expenses and establish guidelines for the evaluation and application of these expenses regarding its recommendations for adjustments in rates.

SEC. 9. Section 1202 of the Harbors and Navigation Code is amended to read:

1202. Public hearings for the purpose of investigating pilotage rates shall be conducted in accordance with the Bagley-Keene Open Meeting Act, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code and a full record shall be kept of all evidence offered.

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:

Existing law, enacted in 1984, provides for a unified system of state regulated bar and inland pilotage for the Bays of San Francisco, San Pablo, and Suisun with provision for the continuation of inland pilots licenses for those existing inland pilots who apply for those licenses prior to March 31, 1985. In order to clarify these laws to make certain that the provisions relating to suspension and revocation of licenses continue to apply to this category of pilot, and in order to include

drug abuse as a ground for suspension or revocation, it is necessary that this act take effect immediately.

CHAPTER 31

An act to amend Section 65962 of the Government Code, to amend Sections 33413 and 37913 of the Health and Safety Code, to add Chapter 6 (commencing with Section 22675) to Part 2 of Division 15 of, and to repeal the heading of Chapter 6 of Part 2 of Division 15 of, the Streets and Highways Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 25, 1985. Filed with Secretary of State April 26, 1985.]

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

SECTION 1. Section 65962 of the Government Code is amended to read:

65962. (a) As used in this section, "local agency" means a city, county, city and county, a school district, and special district.

(b) Any action adopting a fee or charge, or increasing a fee or charge adopted, upon a single family or multifamily development project, as defined in Section 65928, which applies to the filing, accepting, reviewing, approving, or issuing of an application, permit, or entitlement to use shall be enacted in accordance with the procedure specified in Sections 54986 and 54992 and shall be effective no sooner than 60 days following the final action on the adoption of the fee or charge or increase in the fee or charge.

(c) Without following the procedure otherwise required for the adoption of a fee or charge, or increasing a fee or charge, the legislative body of a local agency may adopt an urgency measure as an interim authorization for a fee or charge, or increase in a fee or charge, to protect the public health, welfare and safety. The interim authorization shall require four-fifths vote of the legislative body for adoption. The interim authorization shall have no force or effect 30 days after its adoption. The interim authority shall contain findings describing the current and immediate threat to the public health, welfare and safety. After notice and public hearing pursuant to Sections 54986 and 54992, the legislative body may extend the interim authority for an additional 30 days. Not more than two extensions may be granted. Any extension shall also require a four-fifths vote.

SEC. 2. Section 33413 of the Health and Safety Code is amended to read:

33413. (a) Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall, within four years of the

destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units at affordable housing cost within the project area or within the territorial jurisdiction of the agency.

(b) (1) At least 30 percent of all new or rehabilitated dwelling units developed within the project area by an agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 50 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low-income households.

(2) At least 15 percent of all new or rehabilitated dwelling units developed within the project area by public or private entities or persons other than the agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 40 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to very low-income households.

(3) The requirements of this subdivision shall apply in the aggregate to housing in the project area and not to each individual case of rehabilitation, development, or construction of dwelling units.

(c) The agency shall require that the aggregate number of dwelling units rehabilitated, developed, or constructed pursuant to subdivision (a) or (b) remain available at affordable housing cost to persons and families of low or moderate income and very low-income households, respectively, for not less than the period of the land use controls established in the redevelopment plan.

(d) (1) This section applies only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) on or after January 1, 1976, and to areas which are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. However, any agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project of the agency for which the final redevelopment plan was adopted prior to January 1, 1976.

(2) An agency may, by resolution, elect to require that whenever dwelling units housing persons or families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall replace each dwelling unit with up to two replacement dwelling units pursuant to subdivision (a).

(e) Except as otherwise authorized by law, this section does not authorize an agency to operate a rental housing development beyond the period reasonably necessary to sell or lease the housing development.

SEC. 3. Section 37913 of the Health and Safety Code is amended to read:

37913. Local agencies operating rehabilitation programs pursuant to this part shall submit a report to the California Debt Advisory Commission pursuant to the requirements of Section 8855.5 of the Government Code.

Local agencies may contract with the Department of Housing and Community Development for technical assistance in the operation of rehabilitation programs conducted pursuant to this part.

SEC. 4. The heading of Chapter 6 of Part 2 of Division 15 of the Streets and Highways Code, immediately following Section 22663 of the Streets and Highways Code, is repealed.

SEC. 5. Chapter 6 (commencing with Section 22675) is added to Part 2 of Division 15 of the Streets and Highways Code, to read:

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22675. The validity of an assessment levied under this part for the purpose of raising revenue necessary to pay the debt service on bonds issued pursuant to Section 22662.5 shall not be contested in any action or proceeding, unless the action or proceeding is commenced within 30 days after the initial assessment is levied. Any appeal from a final judgment in the action or proceeding shall be perfected within 30 days after the entry of judgment.

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 promote the production of housing and related facilities as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 32

An act to amend Section 1138.1 of the Probate Code, relating to powers of courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 7, 1985. Filed with Secretary of State May 7, 1985.]

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

SECTION 1. Section 1138.1 of the Probate Code is amended to read:

1138.1. (a) A trustee, beneficiary, or remainderman may petition the superior court for any of the following purposes:

(1) Determining to whom the property shall pass or be delivered

upon final or partial termination of the trust, to the extent such determination is not concluded by the trust instrument.

(2) Settling the accounts and passing upon the acts of the trustee.

(3) Authorizing the trustee to accept additions to the trust when the trust instrument does not prohibit such additions.

(4) Instructing the trustee.

(5) Compelling the trustee to submit his accounts and report his acts as trustee to a beneficiary or remainderman when it appears that the trustee has failed to submit an accounting and report within 60 days after written request of a beneficiary or remainderman and no accounting and report has been made within six months preceding such request.

(6) Granting to the trustee powers not expressly contained in the trust instrument to the extent provided in Section 1120.2.

(7) Fixing, directing, or allowing payment of compensation to the trustee in accordance with Section 2274 of the Civil Code.

(8) Appointing a trustee.

(9) Accepting the resignation of a trustee.

(10) Removing a trustee.

(11) Authorizing or directing removal of the trusts or assets of the trust to another jurisdiction pursuant to the procedure provided in Article 3 (commencing with Section 1139) of Chapter 19 of Division 3.

(12) Directing the relief provided in Section 2279.1 of the Civil Code.

(13) Amending or conforming the trust instrument in the manner required to qualify the decedent's estate for the charitable estate tax deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust as required by final regulations and rulings of the United States Internal Revenue Service, in any case in which all parties interested in the trust have submitted written agreements to the proposed changes or written disclaimer of interest.

(14) Dividing a trust into two or more separate trusts upon good cause shown and with the consent of all parties in interest.

(b) The terms of a trust subject to this article may expressly or by necessary implication limit or eliminate the authority of any trustee, beneficiary, remainderman or other person to petition the court under this article for any one or more of the purposes enumerated in subdivision (a).

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 clarify the powers of courts to divide trusts because of the reluctance of some courts to so act in the absence of specific statutory authority, it is necessary that this act take effect immediately.

CHAPTER 33

An act to amend Section 2982 of the Civil Code, relating to consumer loans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 7, 1985. Filed with Secretary of State May 7, 1985.]

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

SECTION 1. Section 2982 of the Civil Code is amended to read:

2982. Every conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(a) The contract shall contain the following disclosures, as applicable, which shall be labeled "itemization of the amount financed":

(1) (A) The cash price, exclusive of document preparation fees, taxes imposed on the sale, pollution control certification fees, and the amount charged for a service contract.

(B) The fee to be retained by the seller for document preparation.

(C) The fee charged by the seller for certifying that the motor vehicle complies with applicable pollution control requirements.

(D) Taxes imposed on the sale.

(E) The amount charged for a service contract.

(F) The total cash price, which is the sum of subparagraphs (A) to (E), inclusive.

(2) An itemization of the amounts to be paid to any public officer for license, certificate of title, and registration.

(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge.

(4) The amount of the state fee for issuance of a certificate of compliance, noncompliance, or waiver pursuant to any applicable pollution control statute.

(5) A subtotal representing the sum of the foregoing items.

(6) The amount of the buyer's downpayment itemized to show the following:

(A) The net agreed value of the property being traded in.

(B) The amount of any portion of the downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and which is not subject to a finance charge.

(C) The amount of any manufacturer's rebate applied or to be applied to the downpayment.

(D) The remaining amount paid or to be paid by the buyer as a downpayment.

(7) The amount of any administrative finance charge, labeled "prepaid finance charge."

(8) The difference between item (5) and the sum of items (6) and (7), labeled "amount financed."

(b) No particular terminology is required to disclose the items set forth in subdivision (a) except as therein expressly provided.

(c) If payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment schedule disclosed pursuant to Regulation Z.

(d) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(e) The contract shall contain the names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 is to be sent.

(f) (1) Where the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(2) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) (1) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a

partial refund of the finance charge if it is $1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(2) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(3) Where the contract includes a finance charge which is determined on the simple-interest basis, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(h) The contract shall contain a notice, in at least 8-point bold type if the contract is printed, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

(i) (1) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to paragraph (3) of subdivision (a) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment included in the repayment schedule, the term of the insurance shall be stated.

(2) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to

be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) The dollar amount of the disclosed finance charge shall not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars ($225), 1 ⅙ percent on so much of the unpaid balance in excess of two hundred twenty-five dollars ($225) as does not exceed nine hundred dollars ($900), ⅚ of 1 percent on so much of the unpaid balance in excess of nine hundred dollars ($900) as does not exceed one thousand six hundred fifty dollars ($1,650), and $^{13}/_{24}$ of 1 percent on that portion of the unpaid balance which exceeds one thousand six hundred fifty dollars ($1,650), or

(ii) One percent of the entire unpaid balance; multiplied in either case 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) If the finance charge is determined by the precomputed basis, twenty-five dollars ($25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(2) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the disclosed finance charge, except to the extent (A) 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 2982.3, (B) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). 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.

(4) When a contract provides for unequal or irregular payments, or payments on other than a monthly basis, the maximum finance charge shall be at the effective rate provided for in paragraph (1), having due regard for the schedule of installments.

(k) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the delinquent installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement shall not be subject to a delinquency charge. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(*l*) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, including any additional finance charge imposed pursuant to Section 2982.8 or other additional charge imposed because the contract has been extended, deferred or refinanced, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned

finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) of this section or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(m) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (a) of this section are satisified. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(n) If the seller imposes a fee for document preparation, the contract shall contain a disclosure that such fee is not a governmental fee.

(o) No seller may impose an application fee for a transaction governed by this chapter.

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:

Due to the anticipation and reliance by the industry upon the enactment of those provisions, which were approved by the Governor (Ch. 710, Stats. 1984) but then chaptered out (Ch. 1114, Stats. 1984), and the need to remedy confusion in finance charges on certain installment contracts, it is necessary for this act to take effect immediately.

CHAPTER 34

An act to add Section 13982 to, and to repeal Sections 13982 and 13982.5 of, the Health and Safety Code, relating to the Fire Protection District Law of 1961, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 7, 1985. Filed with Secretary of State May 7, 1985.]

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

SECTION 1. Section 13982 of the Health and Safety Code is repealed.

SEC. 2. Section 13982 is added to the Health and Safety Code, to read:

13982. If the board of supervisors finds that the statements in the petition are correct, it may make an order describing the exterior boundaries of the territory included within the district, as determined by the board, and may order that the territory be organized as a district under this part.

SEC. 3. Section 13982.5 of the Health and Safety Code is repealed.

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:

Chapter 80 of the Statutes of 1984 inadvertently amended the Fire Protection District Law of 1961 to permit an inappropriate number of signatures on a petition to cause a reorganization of large special districts. In order to remedy this situation at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 35

An act to add Section 30105 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor May 7, 1985. Filed with Secretary of State May 7, 1985.]

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

SECTION 1. Section 30105 is added to the Revenue and Taxation Code, to read:

30105. The taxes imposed by this part shall not apply to the sale of cigarettes by the original importer to a licensed distributor if the cigarettes are manufactured outside the United States.

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 36

An act to amend Sections 2881 and 4531 of the Business and Professions Code, relating to the Board of Vocational Nurse and Psychiatric Technician Examiners.

[Approved by Governor May 7, 1985. Filed with Secretary of State May 7, 1985.]

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

SECTION 1. Section 2881 of the Business and Professions Code is amended to read:

2881. An accredited school of vocational nursing is one which has been approved by the Board of Vocational Nurse and Psychiatric Technician Examiners, gives a course of instruction in vocational nursing of not less than 1530 hours or 50 semester units approved by the board pursuant to Section 2882 whether the same be established by the State Board of Education, other educational institutions, or other public or private agencies or institutions and is affiliated or conducted in connection with one or more hospitals.

One hour of instruction for purposes of computing the total hours of instruction or for calculating semester units as specified in this section shall consist of not less than 50 minutes of actual class time.

SEC. 2. Section 4531 of the Business and Professions Code is amended to read:

4531. The course of instruction of an accredited school shall consist of not less than the number of hours or semester units of instruction required for the other program administered by the board. The subjects of instruction shall include the principles of the care of the mentally disabled and the developmentally disabled. Clinical inpatient experience shall be an integral part of that prescribed or equivalent course of study and training. The experience shall be obtained in a state hospital, except where the board finds that the requirement is not feasible due either to the distance of a state hospital from the school or the unavailability, as determined by the Department of Developmental Services or the Department of Mental Health, of state hospital clinical training placements.

CHAPTER 37

An act to add Section 938.7 to the Unemployment Insurance Code, relating to unemployment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 7, 1985. Filed with Secretary of State May 7, 1985.]

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

SECTION 1. Section 938.7 is added to the Unemployment Insurance Code, to read:

938.7. "Wages," does not include any payment made by an employer to a survivor, or the estate of a former employee, after the calendar year in which the employee died.

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 prevent inappropriate withholding from the income earned by deceased persons, as soon as possible, this act shall go into immediate effect.

CHAPTER 38

An act to amend and renumber Section 1463.03 of the Penal Code, and to amend Section 5536 of the Public Resources Code, relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 13, 1985. Filed with Secretary of State May 13, 1985.]

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

SECTION 1. Section 1463.03 of the Penal Code, as added by Chapter 991 of the Statutes of 1984 is amended and renumbered to read:

1463.05. Notwithstanding Section 1463, out of moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred once a month, to the treasurer of any recreation and park district in the county for deposit in the district fund, an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon conviction of any person or upon the forfeiture of bail from any person arrested or notified by a peace officer of the district and charged with a violation of any rule, regulation, or ordinance of the district committed on property

owned, administered, or controlled by the district, and an amount equal to the remaining 50 percent shall be transferred into the general fund of the county.

SEC. 2. Section 5536 of the Public Resources Code is amended to read:

5536. (a) The board shall establish rules for its proceedings.

(b) The board may provide, by ordinance or resolution, that each of its members may receive an amount not to exceed one hundred dollars ($100) per day for each attendance at a meeting of the board. For purposes of this section, a meeting of the board includes, but is not limited to, closed sessions of the board, board field trips, district public hearings, or meetings of a committee of the board. The maximum compensation allowable to a board member on any given day shall be one hundred dollars ($100). Board members shall not receive any other compensation, and no board member shall receive more than five hundred dollars ($500) compensation under this section in any one calendar month. A board member may elect to waive the per diem. In addition, the board may provide, by ordinance or resolution, that each of its members not otherwise eligible for an employer-paid or partially employer-paid group medical or group dental plan, or both, may participate in any of those plans available to permanent employees of the district on the same terms available to those district employees or on terms and conditions as the board may determine. A board member who elects to participate in any plan may also elect to have the premium for the plan charged against his or her per diem and may further elect to waive the balance of the per diem.

(c) The board shall fill all vacancies on the board, including those caused by the death or resignation of a member, or the establishment of new wards; but, whenever a vacancy exists for 30 days, the Governor shall fill the vacancy. The person appointed to fill any vacancy shall hold office for the remainder of the unexpired term of his or her predecessor; except that, in the case of newly created wards, the directors shall, prior to making appointments, determine by lot, for the purpose of fixing the terms of the first directors to be elected in the wards, which ward shall have a four-year term and which ward shall have a two-year term, and the persons appointed to fill vacancies caused by the establishment of new wards shall hold office until the next general election following their appointment and until their successors are elected and qualified for the terms previously determined by lot.

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

In order to avoid confusion resulting from the inadvertent addition of two provisions with identical code section numbers, and in order to clarify a provision authorizing regional park districts to provide for per diem to members of the board of directors of the district for

attendance at board meetings, at the earliest possible time, it is necessary that this bill take effect immediately.

CHAPTER 39

An act to amend Section 70141.9 of the Government Code, and to amend Section 15 of Chapter 1311 of the Statutes of 1984, relating to courts, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 13, 1985. Filed with Secretary of State May 13, 1985.]

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

SECTION 1. Section 70141.9 of the Government Code is amended to read:

70141.9. In a county of the 11th class, the superior court, subject to prior approval by the board of supervisors, may appoint four commissioners. The superior court may provide that the commissioners, in addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the duties prescribed by Section 259a of the Code of Civil Procedure and in addition thereto the duties of a probate commissioner appointed pursuant to Section 69897. The superior court may also authorize the commissioners to perform the duties of a juvenile court referee appointed pursuant to Section 247 of the Welfare and Institutions Code. Any commissioner authorized to perform the duties set forth above shall receive a salary equal to 75, 80, or 85 percent of the salary of a judge of the superior court. The court shall determine the level of the salary to be received by a court commissioner, making adjustments on the three levels in accordance with the qualifications, performance, and other factors deemed relevant by the court. The salary shall be adjusted by the court at the time and in the manner specified in Section 68203. Each commissioner shall also be allowed actual traveling expenses pursuant to Section 70148.

The amendment of this section made at the 1985-86 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 2. Section 15 of Chapter 1311 of the Statutes of 1984 is amended to read:

Sec. 15. The sum of two million seven hundred eighty-six thousand eight hundred eighty dollars ($2,786,880) is hereby appropriated from the General Fund to the Controller for allocation and disbursement, as follows:

(a) In augmentation of Item 0420-101-001 of the Budget Act of 1984 for the state's share of sala-

	ries of judges of the superior court as provided by Section 68206 of the Government Code ..	$ 986,880
(b)	In augmentation of, and subject to the limitations contained in, Item 0440-101-001 of the Budget Act of 1984 for payment to counties for disbursement as a $60,000 block grant, for each of the superior court judgeships created by statutes enacted since January 1, 1973.....	$1,800,000
		$2,786,880

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

In order to make a technical, nonsubstantive correction in the law relative to the superior court in Riverside County as soon as possible, and to provide for disbursal of the funds which are the subject of this act in augmentation of the Budget Act of 1984, it is necessary that this act take effect immediately.

CHAPTER 40

An act to amend Section 52097.5 of, and to add Section 52032.5 to, the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 15, 1985. Filed with Secretary of State May 15, 1985]

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

SECTION 1. Section 52032.5 is added to the Health and Safety Code, to read:

52032.5. Any city, county, or city and county, prior to approving the sale of bonds on a negotiated sale basis, shall retain an investment firm which has had no prior underwriting relationship with the city, county, or city and county relating to the issuance of housing bonds within the last three years. The firm shall make findings of fact in a report certifying both of the following:

(a) The underwriter's spread is reasonable.

(b) The final negotiated offering is consistent with common practices in the industry and is comparable to other bond offerings of a comparable amount being offered within the last six months.

SEC. 2. Section 52097.5 of the Health and Safety Code is amended to read:

52097.5. At least 30 days prior to issuing bonds pursuant to this chapter or a charter provision or ordinance for the purposes

specified in Section 52097, a city, county, or city and county shall notify the State Treasurer that it intends to issue bonds pursuant to this chapter or other authority, the amount of bonds expected to be issued, and the approximate date on which the bonds will be issued. The State Treasurer shall advise the city, county, or city and county of the aggregate amount of bonds previously issued in the calendar year pursuant to this chapter or other authority.

(b) Within five days of the issuance of bonds pursuant to this chapter or other authority, the city, county, or city and county shall notify the State Treasurer of the amount of bonds issued.

(c) The maximum aggregate amount of bonds which may be issued pursuant to this chapter or a charter provision or ordinance for the purposes specified in Section 52097, shall not exceed one billion five hundred million dollars ($1,500,000,000) in any calendar year.

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

In order to develop necessary housing at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 41

An act to amend Sections 488.450, 681.030, 683.160, 697.590, 701.680, 704.770, 704.790, 708.310, 720.160, 720.260, and 720.660 of, to add Sections 489.010 and 720.710 to, and to repeal Sections 2067, 2068, 2069, and 2070 of, the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor May 15, 1985 Filed with Secretary of State May 15, 1985.]

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

SECTION 1. Section 488.450 of the Code of Civil Procedure is amended to read:

488.450. To attach a security, the levying officer shall comply with Section 8317 of the Commercial Code. The legal process referred to in Section 8317 of the Commercial Code means the legal process required by the state in which the chief executive office of the issuer of the security is located and, where that state is California, means personal service by the levying officer of a copy of the writ of attachment and notice of attachment on the person who is to be served.

SEC. 2. Section 489.010 is added to the Code of Civil Procedure, to read:

489.010. The Bond and Undertaking Law (Chapter 2

(commencing with Section 995.010) of Title 14) applies to a bond given pursuant to this title, except to the extent this title prescribes a different rule or is inconsistent.

SEC. 3. Section 681.030 of the Code of Civil Procedure is amended to read:

681.030. (a) The Judicial Council may provide by rule for the practice and procedure in proceedings under this title.

(b) The Judicial Council may prescribe the form of the applications, notices, orders, writs, and other papers to be used under this title. The Judicial Council may prescribe forms in languages other than English. The timely completion and return of a Judicial Council form prescribed in a language other than English has the same force and effect as the timely completion and return of an English language form.

(c) The Judicial Council shall prepare a form containing both of the following:

(1) A list of each of the federal and this state's exemptions from enforcement of a money judgment against a natural person.

(2) A citation to the relevant statute of the United States or this state which creates each of the exemptions.

SEC. 4. Section 683.160 of the Code of Civil Procedure is amended to read:

683.160. (a) The judgment creditor shall serve a notice of renewal of the judgment on the judgment debtor. Service shall be made personally and proof of service shall be filed with the court clerk. The notice shall be in a form prescribed by the Judicial Council and shall inform the judgment debtor that the judgment debtor has 30 days within which to make a motion to vacate or modify the renewal.

(b) Until proof of service is filed pursuant to subdivision (a), no writ may be issued, nor may any enforcement proceedings be commenced to enforce the judgment, except to the extent that the judgment would be enforceable had it not been renewed.

SEC. 5. Section 697.590 of the Code of Civil Procedure is amended to read:

697.590. (a) As used in this section:

(1) "Filing" means:

(A) With respect to a judgment lien on personal property, the filing of a notice of judgment lien in the office of the Secretary of State to create a judgment lien on personal property under this article.

(B) With respect to a security interest, the filing of a financing statement pursuant to Division 9 (commencing with Section 9101) of the Commercial Code.

(2) "Perfection" means perfection of a security interest pursuant to Division 9 (commencing with Section 9101) of the Commercial Code.

(3) "Personal property" means:

(A) With respect to a judgment lien on personal property, the

property to which a judgment lien has attached pursuant to this article.

(B) With respect to a security interest, the collateral subject to a security interest pursuant to Division 9 (commencing with Section 9101) of the Commercial Code.

(4) "Purchase money security interest" means "purchase money security interest" as defined in Section 9107 of the Commercial Code.

(b) Except as provided in subdivisions (d) and (e), priority between a judgment lien on personal property and a conflicting security interest in the same personal property shall be determined according to this subdivision. Conflicting interests rank according to priority in time of filing or perfection. In the case of a judgment lien, priority dates from the time filing is first made covering the personal property. In the case of a security interest, priority dates from the time a filing is first made covering the personal property or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(c) For the purposes of subdivision (b), a date of filing or perfection as to personal property is also a date of filing or perfection as to proceeds.

(d) A purchase money security interest has priority over a conflicting judgment lien on the same personal property or its proceeds if the purchase money security interest is perfected at the time the judgment debtor (as a debtor under the security agreement) receives possession of the personal property or within 10 days thereafter.

(e) If a purchase money security interest in inventory has priority over a judgment lien pursuant to subdivision (d) and a conflicting security interest has priority over the purchase money security interest in the same inventory pursuant to subdivision (3) of Section 9312 of the Commerical Code, the conflicting security interest also has priority over the judgment lien on the inventory subject to the purchase money security interest notwithstanding that the conflicting security interest would not otherwise have priority over the judgment lien.

(f) A judgment lien that has attached to personal property and that is also subordinate under subdivision (b) to a security interest in the same personal property is subordinate to the security interest only to the extent that the security interest secures advances made before the judgment lien attached or within 45 days thereafter or made without knowledge of the judgment lien or pursuant to a commitment entered into without knowledge of the judgment lien. For the purpose of this subdivision, a secured party shall be deemed not to have knowledge of a judgment lien on personal property until (1) the judgment creditor serves a copy of the notice of judgment lien on the secured party personally or by mail and (2) the secured party has knowledge of the judgment lien on personal property, as "knowledge" is defined in Section 1201 of the Commercial Code. If

service on the secured party is by mail, it shall be sent to the secured party at the address shown in the financing statement or security agreement.

SEC. 6. Section 701.680 of the Code of Civil Procedure is amended to read:

701.680. (a) Except as provided in paragraph (1) of subdivision (c), a sale of property pursuant to this article is absolute and may not be set aside for any reason.

(b) If the judgment is reversed, vacated, or otherwise set aside, the judgment debtor may recover from the judgment creditor the proceeds of a sale pursuant to the judgment with interest at the rate on money judgments to the extent the proceeds were applied to the satisfaction of the judgment.

(c) If the sale was improper because of irregularities in the proceedings, because the property sold was not subject to execution, or for any other reason:

(1) The judgment debtor, or the judgment debtor's successor in interest, may commence an action within six months after the date of sale to set aside the sale if the purchaser at the sale is the judgment creditor. Subject to paragraph (2), if the sale is set aside, the judgment of the judgment creditor is revived to reflect the amount that was satisfied from the proceeds of the sale and the judgment creditor is entitled to interest on the amount of the judgment as so revived as if the sale had not been made.

(2) The judgment debtor, or the judgment debtor's successor in interest, may recover damages caused by the impropriety. If damages are recovered against the judgment creditor, they shall be offset against the judgment to the extent the judgment is not satisfied. If damages are recovered against the levying officer, they shall be applied to the judgment to the extent the judgment is not satisfied.

(d) For the purposes of subdivision (b), the purchaser of the property at the sale is not a successor in interest.

SEC. 7. Section 704.770 of the Code of Civil Procedure is amended to read:

704.770. (a) Upon the filing of the application by the judgment creditor, the court shall set a time and place for hearing and order the judgment debtor to show cause why an order for sale should not be made in accordance with the application. The time set for hearing shall be not later than 45 days after the application is filed or such later time as the court orders upon a showing of good cause.

(b) Not later than 30 days before the time set for hearing, the judgment creditor shall do both of the following:

(1) Serve on the judgment debtor a copy of the order to show cause, a copy of the application of the judgment creditor, and a copy of the notice of the hearing in the form prescribed by the Judicial Council. Service shall be made personally or by mail.

(2) Personally serve a copy of each document listed in paragraph (1) on an occupant of the dwelling or, if there is no occupant present

at the time service is attempted, post a copy of each document in a conspicuous place at the dwelling.

SEC. 8. Section 704.790 of the Code of Civil Procedure is amended to read:

704.790. (a) This section applies in any case where the court makes an order for sale of the dwelling upon a hearing at which none of the following appeared:

(1) The judgment debtor.

(2) The judgment debtor's spouse.

(3) The attorney for the judgment debtor.

(4) The attorney for the judgment debtor's spouse.

(b) Not later than 10 days after the date of the order for sale, the judgment creditor shall serve a copy of the order and a notice of the order in the form prescribed by the Judicial Council:

(1) Personally or by mail on the judgment debtor and the judgment debtor's spouse.

(2) Personally on an occupant of the dwelling or, if there is no occupant present at the time service is attempted, post a copy of the order and notice in a conspicuous place at the dwelling.

(c) Proof of service and of any posting shall be filed with the court and with the levying officer. If the judgment creditor fails to comply with this subdivision and with subdivision (b) in any case where this section applies, the dwelling may not be sold under the order for sale.

(d) If, within 10 days after service of notice of the order, the judgment debtor or the judgment debtor's spouse files with the levying officer a declaration that the absence of the judgment debtor and the judgment debtor's spouse or the attorney for the judgment debtor or the judgment debtor's spouse from the hearing was due to mistake, inadvertence, surprise, or excusable neglect and that the judgment debtor or spouse of the judgment debtor wishes to assert the homestead exemption, the levying officer shall transmit the declaration forthwith to the court. Upon receipt of the declaration, the court shall set a time and place for hearing to determine whether the determinations of the court should be modified. The time set for hearing shall be not later than 20 days after receipt of the declaration. The court clerk shall cause notice of the hearing promptly to be given to the parties.

SEC. 9. Section 708.310 of the Code of Civil Procedure is amended to read:

708.310. If a money judgment is rendered against a partner but not against the partnership, the judgment debtor's interest in the partnership may be applied toward the satisfaction of the judgment by an order charging the judgment debtor's interest pursuant to Section 15028 or 15673 of the Corporations Code.

SEC. 10. Section 720.160 of the Code of Civil Procedure is amended to read:

720.160. (a) If the creditor files with the levying officer an undertaking that satisfies the requirements of this section within the time allowed under subdivision (b) of Section 720.140:

(1) The levying officer shall execute the writ in the manner provided by law unless the third person files an undertaking to release the property pursuant to Chapter 6 (commencing with Section 720.610).

(2) After sale, payment, or delivery of the property pursuant to the writ, the property is free of all claims of the third person for which the creditor has given the undertaking.

(b) Subject to Sections 720.770 and 996.010, unless the creditor elects to file an undertaking in a larger amount, the amount of the undertaking filed by the creditor under this section shall be in the amount of:

(1) If the action is pending or the judgment was entered in the superior court, seven thousand five hundred dollars ($7,500), or twice the amount of the execution lien as of the date of levy or other enforcement lien as of the date it was created, whichever is the lesser amount.

(2) If the action is pending or the judgment was entered in a municipal or justice court, two thousand five hundred dollars ($2,500), or twice the amount of the execution lien as of the date of levy or other enforcement lien as of the date it was created, whichever is the lesser amount.

(c) An undertaking given by the creditor under this chapter shall:

(1) Be made in favor of the third person.

(2) Indemnify the third person against any loss, liability, damages, costs, and attorney's fees, incurred by reason of the enforcement proceedings.

(3) Be conditioned on a final judgment that the third person owns or has the right of possession of the property.

(d) If the creditor is a public entity exempt from giving an undertaking, the public entity shall, in lieu of filing the undertaking, file with the levying officer a notice stating that the public entity opposes the claim of the third person. When so filed, the notice is deemed to satisfy the requirement of this section that an undertaking be filed.

SEC. 11. Section 720.260 of the Code of Civil Procedure is amended to read:

720.260. (a) If the creditor within the time allowed under subdivision (b) of Section 720.240 either files with the levying officer an undertaking that satisfies the requirements of this section and a statement that satisfies the requirements of Section 720.280 or makes a deposit with the levying officer of the amount claimed under Section 720.230:

(1) The levying officer shall execute the writ in the manner provided by law unless, in a case where the creditor has filed an undertaking, the secured party or lienholder files an undertaking to release the property pursuant to Chapter 6 (commencing with Section 720.610).

(2) After sale, payment, or delivery of the property pursuant to the writ, the property is free of all claims or liens of the secured party

or lienholder for which the creditor has given the undertaking or made the deposit.

(b) Subject to Sections 720.770 and 996.010, unless the creditor elects to file an undertaking in a larger amount, the amount of the undertaking filed by the creditor under this section shall be in the amount of:

(1) If the action is pending or the judgment was entered in the superior court, seven thousand five hundred dollars ($7,500), or twice the amount of the execution lien as of the date of levy or other enforcement lien as of the date it was created, whichever is the lesser amount.

(2) If the action is pending or the judgment was entered in a municipal or justice court, two thousand five hundred dollars ($2,500), or twice the amount of the execution lien as of the date of levy or other enforcement lien as of the date it was created, whichever is the lesser amount.

(c) An undertaking given by the creditor under this chapter shall:

(1) Be made in favor of the secured party or lienholder.

(2) Indemnify the secured party or lienholder against any loss, liability, damages, costs, and attorney's fees, incurred by reason of the enforcement proceedings.

(3) Be conditioned on a final judgment that the security interest or lien of the third person is entitled to priority over the creditor's lien.

(d) If the creditor is a public entity exempt from giving an undertaking, the public entity shall, in lieu of filing the undertaking, file with the levying officer a notice stating that the public entity opposes the claim of the third person. When so filed, the notice is deemed to satisfy the requirement of this section that an undertaking be filed.

SEC. 12. Section 720.660 of the Code of Civil Procedure is amended to read:

720.660. The levying officer shall release the property described in the third person's undertaking in the manner provided by Section 720.170 promptly after the expiration of the time allowed for objecting to the undertaking, unless the creditor has objected to the undertaking, and filed with the levying officer a copy of the notice of motion as required by Section 720.760, prior to the expiration of that time.

SEC. 13. Section 720.710 is added to the Code of Civil Procedure, to read:

720.710. The Bond and Undertaking Law (Chapter 2 (commencing with Section 995.010) of Title 14) applies to a bond given pursuant to this title, except to the extent this title prescribes a different rule or is inconsistent.

SEC. 14. Section 2067 of the Code of Civil Procedure is repealed.

SEC. 15. Section 2068 of the Code of Civil Procedure is repealed.

SEC. 16. Section 2069 of the Code of Civil Procedure is repealed.

SEC. 17. Section 2070 of the Code of Civil Procedure is repealed.

CHAPTER 42

An act to amend Sections 1799.2 and 1799.4 of, and to add Section 1799.3 to, the Health and Safety Code, relating to emergency medical services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 15, 1985. Filed with Secretary of State May 15, 1985.]

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

SECTION 1. Section 1799.2 of the Health and Safety Code is amended to read:

1799.2. The commission shall consist of 14 members appointed as follows:

(a) One full-time physician and surgeon, whose primary practice is emergency medicine, appointed by the Senate Rules Committee from a list of three names submitted by the California Chapter of the American College of Emergency Physicians.

(b) One physician and surgeon, who is a trauma surgeon, appointed by the Speaker of the Assembly from a list of three names submitted by the California Chapter of the American College of Surgeons.

(c) One physician and surgeon appointed by the Senate Rules Committee from a list of three names submitted by the California Medical Association.

(d) One county health officer or medical director of a local EMS agency appointed by the Governor from a list of three names submitted by the California Conference of Local Health Officers.

(e) One registered nurse, who is currently, or has been previously, authorized as a mobile intensive care nurse and who is knowledgeable in state emergency medical services programs and issues, appointed by the Governor from a list of three names submitted by the Emergency Nurses Association.

(f) One full-time paramedic or EMT-II, who is not employed as a full-time peace officer, appointed by the Senate Rules Committee from a list of three names submitted by the California Rescue and Paramedic Association.

(g) One prehospital emergency medical service provider from the private sector, appointed by the Speaker of the Assembly from a list of three names submitted by the California Ambulance Association.

(h) One management member of an entity providing fire protection and prevention services appointed by the Governor from a list of three names submitted by the California Fire Chiefs Association.

(i) One physician and surgeon who is board eligible or board certified in the specialty of emergency medicine by the American

Board of Emergency Medicine and who is knowledgeable in state emergency medical services programs and issues appointed by the Speaker of the Assembly.

(j) One hospital administrator of a base hospital who is appointed by the Governor from a list of three names submitted by the California Hospital Association.

(k) One full-time peace officer, who is either an EMT-II or a paramedic, who is appointed by the Governor from a list of three names submitted by the California Peace Officers Association.

(*l*) Two public members who have experience in local EMS policy issues, at least one of whom resides in a rural area as defined by the authority, and who are appointed by the Governor.

(m) One administrator from a local EMS agency appointed by the Governor from a list of four names submitted jointly by the Northern California EMS Administrators Association and the Southern California EMS Administrator Council.

SEC. 2. Section 1799.3 is added to the Health and Safety Code, to read:

1799.3. At the discretion of the appointing power or body, a member of the commission may be reappointed or may continue to serve if he or she no longer continues to function in the capacity which originally qualified him or her for appointment. However, where Section 1799.2 requires that an appropriate organization submit names to the appointing power or body, a person shall not be reappointed pursuant to this section unless his or her name is submitted by that appropriate organization.

SEC. 3. Section 1799.4 of the Health and Safety Code is amended to read:

1799.4. (a) Except as otherwise provided in this section, the terms of the members of the commission shall be three calendar years, commencing January 1 of the year of appointment. No member shall serve more than two consecutive full terms; provided, however, that a term or part of a term served pursuant to paragraph (1) or (2) of subdivision (b) shall not be included in this limitation.

(b) (1) The first members appointed on or after January 1, 1985, pursuant to subdivisions (a), (b), (c), and (d) of Section 1799.2 shall serve from the date of appointment to the end of that calendar year, plus one additional year.

(2) The first members appointed on or after January 1, 1985, pursuant to subdivisions (e), (f), (g), (h), and (i) of Section 1799.2 shall serve from the date of appointment to the end of that calendar year, plus two additional years.

(3) The first members appointed on or after January 1, 1985, pursuant to subdivisions (j), (k), and (m) of Section 1799.2 shall be from the date of appointment to the end of that calendar year, plus three additional years.

(4) The first member appointed on or after January 1, 1985, pursuant to subdivision (*l*) of Section 1799.2 shall serve from the date of appointment to the end of that calendar year, plus one additional

year, and the second member shall serve from the date of appointment to the end of that calendar year, plus two additional years.

(5) It is the purpose of this subdivision to provide for staggered terms for the members of the commission.

SEC. 4. If an existing member of the Commission on Emergency Medical Services on the effective date of this act who was appointed pursuant to subdivision (*l*) of Section 1799.2 of the Health and Safety Code qualifies for the position created by subdivision (m) of that section, then that existing member shall automatically become a member of the commission pursuant to subdivision (m) and complete his or her existing term in the new position.

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 that the valuable expertise of members of the Commission on Emergency Medical Services not be lost and in order to continue persons with varied experiences on the commission, it is necessary for this act to take effect immediately.

CHAPTER 43

An act to add Section 1347 to the Penal Code, relating to witnesses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 18, 1985. Filed with Secretary of State May 20, 1985.]

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

SECTION 1. Section 1347 is added to the Penal Code, to read:

1347. (a) It is the intent of the Legislature in enacting this section to provide the court with discretion to employ unusual court procedures to protect the rights of a child witness, the rights of the defendant, and the integrity of the judicial process. In exercising its discretion, the court necessarily will be required to balance the rights of the defendant against the need to protect a child witness and to preserve the integrity of the court's truthfinding function. This discretion is intended to be used selectively when the facts and circumstances in the individual case present compelling evidence of the need to use these unusual procedures.

(b) Notwithstanding any other provision of law, the court in any criminal proceeding, upon written notice of the prosecutor made at least three days prior to the date of the prelminary hearing or trial date on which the testimony of the minor is scheduled, or during the course of the proceeding on the court's own motion, may order that the testimony of a minor 10 years of age or younger at the time of

the motion be taken by contemporaneous examination and cross-examination in another place and out of the presence of the judge, jury, defendant, and attorneys, and communicated to the courtroom by means of two-way closed-circuit television, if the court makes all of the following findings:

(1) The minor's testimony will involve a recitation of the facts of an alleged sexual offense committed on or with the minor.

(2) The impact on the minor of one or more of the factors enumerated in subparagraphs (A) to (D), inclusive, is shown by clear and convincing evidence to be so substantial as to make the minor unavailable as a witness unless closed-circuit television is used.

(A) Threats of serious bodily injury to be inflicted on the minor or a family member, of incarceration or deportation of the minor or a family member, or of removal of the minor from the family or dissolution of the family, in order to prevent or dissuade the minor from attending or giving testimony at any trial or court proceeding or to prevent the minor from reporting the alleged sexual offense or from assisting in criminal prosecution.

(B) Use of a firearm or any other deadly weapon during the commission of the crime.

(C) Infliction of great bodily injury upon the victim during the commission of the crime.

(D) Conduct on the part of the defendant or defense counsel during the hearing or trial which causes the minor to be unable to continue his or her testimony.

In making the determination required by this section, the court shall consider the age of the minor, the relationship between the minor and the defendant or defendants, any handicap or disability of the minor, and the nature of the acts charged. The minor's refusal to testify shall not alone constitute sufficient evidence that the special procedure described in this section is necessary in order to obtain the minor's testimony.

(3) The equipment available for use of two-way closed-circuit television would accurately communicate the image and demeanor of the minor to the judge, jury, defendant or defendants, and attorneys.

(c) (1) The hearing on a motion brought pursuant to this section shall be conducted out of the presence of the jury.

(2) Notwithstanding Section 804 of the Evidence Code or any other provision of law, the court, in determining the merits of the motion, shall not compel the minor to testify at the hearing; nor shall the court deny the motion on the ground that the minor has not testified.

(3) In determining whether the impact on an individual child of one or more of the four factors enumerated in paragraph (2) of subdivision (b) is so substantial that the minor is unavailable as a witness unless closed-circuit television is used, the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of

time with the support person, the prosecutor, and defense counsel present. The defendant or defendants shall not be present. The court shall conduct the questioning of the minor and shall not permit the prosecutor or defense counsel to examine the minor. The prosecutor and defense counsel shall be permitted to submit proposed questions to the court prior to the session in chambers. Defense counsel shall be afforded a reasonable opportunity to consult with the defendant or defendants prior to the conclusion of the session in chambers.

(d) When the court orders the testimony of a minor to be taken in another place outside of the courtroom, the court shall do all of the following:

(1) Make a brief statement on the record, outside of the presence of the jury, of the reasons in support of its order. While the statement need not include traditional findings of fact, the reasons shall be set forth with sufficient specificity to permit meaningful review and to demonstrate that discretion was exercised in a careful, reasonable, and equitable manner.

(2) Instruct the members of the jury that they are to draw no inferences from the use of two-way closed-circuit television as a means of facilitating the testimony of the minor.

(3) Instruct respective counsel, outside of the presence of the jury, that they are to make no comment during the course of the trial on the use of two-way closed-circuit television procedures.

(4) Instruct the support witness, outside of the presence of the jury, that he or she is not to coach, cue, or in any way influence or attempt to influence the testimony of the minor.

(5) Order that a complete record of the examination of the minor, including the images and voices of all persons who in any way participate in the examination, be made and preserved on video tape in addition to being stenographically recorded. The video tape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and his or her attorney during ordinary business hours. The video tape shall be destroyed after five years have elapsed from the date of entry of judgment. If an appeal is filed, the tape shall not be destroyed until a final judgment on appeal has been ordered. Any video tape which is taken pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the witness. This subdivision does not affect the provisions of subdivision (b) of Section 868.7.

(e) When the court orders the testimony of a minor to be taken in another place outside the courtroom, only the minor, a support person designated pursuant to Section 868.5 of the Penal Code, a nonuniformed bailiff, and, after consultation with the prosecution and the defense, a representative appointed by the court, shall be physically present for the testimony. A videotape shall record the image of the minor and his or her testimony, and a separate videotape shall record the image of the support person.

(f) When the court orders the testimony of a minor to be taken

in another place outside the courtroom, the minor shall be brought into the judge's chambers prior to the taking of his or her testimony to meet for a reasonable period of time with the judge, the prosecutor, and defense counsel. A support person for the minor shall also be present. This meeting shall be for the purpose of explaining the court process to the child and to allow the attorneys an opportunity to establish rapport with the child to facilitate later questioning by closed-circuit television. No participant shall discuss the defendant or any of the facts of the case with the minor during this meeting.

(g) When the court orders the testimony of a minor to be taken in another place outside the courtroom, nothing in this section shall prohibit the court from ordering the minor to be brought into the courtroom for a limited purpose including the identification of the defendant or defendants as the court deems necessary.

(h) The examination shall be under oath, and the defendant's image shall be transmitted live to the witness via two-way contemporaneous closed-circuit television.

(i) Nothing in this section shall affect the disqualification of witnesses pursuant to Section 701 of the Evidence Code.

(j) The Judicial Council shall submit a report to the Legislature on or before January 1, 1988, summarizing the experience of courts which have used contemporaneous closed-circuit television pursuant to this section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect minors who are complaining witnesses in cases of alleged sexual abuse at the earliest possible time, it is necessary that this bill take effect immediately.

CHAPTER 44

An act to amend Sections 25189.5, 25190, 25191, and 25242 of, to amend and renumber Sections 24342.3, 25342.1, and 25342.2 of, and to repeal Section 25191.5 of, the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 18, 1985. Filed with Secretary of State May 20, 1985.]

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

SECTION 1. Section 24342.3 of the Health and Safety Code is amended and renumbered to read:

25242.3. If any provision of this article or the application thereof

to any person or circumstance is held invalid, this holding shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end, the provisions of the article are severable.

SEC. 2. Section 25189.5 of the Health and Safety Code is amended to read:

25189.5. (a) The disposal of any hazardous waste, or the causing thereof, is prohibited when the disposal is at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter.

(b) Any person who is convicted of knowingly disposing or causing the disposal of any hazardous waste, or who reasonably should have known that he or she was disposing or causing the disposal of any hazardous waste, at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 24, or 36 months.

(c) Any person who knowingly transports or causes the transportation of hazardous waste, or who reasonably should have known that he or she was causing the transportation of any hazardous waste, to a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 24, or 36 months.

(d) The court shall also impose upon a person convicted of violating subdivision (b) or (c) a fine of not less than five thousand dollars ($5,000) or more than fifty thousand dollars ($50,000) for each day of violation.

SEC. 3. Section 25190 of the Health and Safety Code is amended to read:

25190. Except as otherwise provided in Sections 25189.5, 25191, and 25195, any person who violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is, upon conviction, guilty of a misdemeanor.

If the conviction is for a second or subsequent violation, the person shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 20, or 24 months. The court shall also impose upon the person a fine of not less than five thousand dollars ($5,000) or more than twenty-five thousand dollars ($25,000).

SEC. 4. Section 25191 of the Health and Safety Code is amended to read:

25191. (a) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or more than twenty-five thousand dollars

($25,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not more than one year, or by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by both the fine and imprisonment:

(1) Makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter, that has been altered or concealed, whether altered or concealed prior to January 1, 1982.

(3) Destroys, alters, or conceals any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter.

(4) Withholds information regarding a real and substantial danger to the public health or safety when such information has been requested by the department and is required to carry out the department's responsibilities pursuant to this chapter in response to a real and substantial danger.

(5) Except as otherwise provided in this chapter, engages in transportation of hazardous waste in violation of Section 25160 or 25161, or subdivision (a) or (e) of Section 25163, or in violation of any regulation adopted by the department pursuant to those sections, including, but not limited to, failing to complete or provide the manifest in the form and manner required by the department.

(6) Except as otherwise provided in this chapter, produces, receives, stores, or disposes of hazardous waste, or submits hazardous waste for transportation, in violation of Section 25160 or 25161 or any regulation adopted by the department pursuant to those sections, including, but not limited to, failing to complete, provide, or submit the manifest in the form and manner required by the department.

(7) Transports any waste, for which there is provided a manifest, if the transportation is in violation of this chapter or the regulations adopted by the department pursuant thereto.

(b) The penalties imposed by subdivision (a) on any person who commits any of the acts specified in paragraph (5) or (7) of that subdivision shall be imposed only (1) on the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled or (2) on the person who authorizes or causes the transporting, carrying, or handling. These penalties shall not be

imposed on the driver of the vehicle, unless the driver is also the owner or lessee of the vehicle or authorized or caused the transporting, carrying, or handling.

If any person other than the person producing the hazardous waste prepares the manifest specified in Section 25160, that other person is also subject to the penalties imposed on a person who commits any of the acts specified in paragraph (6) of subdivision (a).

(c) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not more than five hundred dollars ($500) for each day of violation, or by imprisonment in the county jail for not to exceed six months, or both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation:

(1) Transports, or authorizes the transportation of, hazardous waste in a truck, trailer, semitrailer, vacuum tank, cargo tank, or container which does not contain a current certificate of compliance, as specified in Section 25168.3.

(2) Carries or handles, or authorizes the carrying or handling of, a hazardous waste without having in the driver's possession the manifest specified in Section 25160.

(d) Any person who knowingly treats or stores any hazardous waste at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not more than one year, or by a fine of not less than five thousand dollars ($5,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by both the fine and imprisonment.

(e) Whenever any person is prosecuted for a violation pursuant to paragraph (5), (6), or (7) of subdivision (a), subdivision (c), or subdivision (c) of Section 25189.5, the prosecuting attorney may take appropriate steps to make the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled, the driver of the vehicle, or any other person who authorized or directed the loading, maintenance, or operation of the vehicle, who is reasonably believed to have violated these provisions, a codefendant. If a codefendant is held solely responsible and found guilty, the court may dismiss the charge against the person who was initially so charged.

SEC. 5. Section 25191.5 of the Health and Safety Code is repealed.

SEC. 6. Section 25242 of the Health and Safety Code is amended to read:

25242. (a) Any city, county, or state agency which, as owner, lessor, or lessee, knows or has probable cause to believe that a disposal of hazardous waste which is not authorized pursuant to this chapter has occurred on, under, or into the land which the city, county, or state agency owns or leases shall notify the department. Upon receiving that notice, the department shall determine if there has been a disposal of hazardous waste which is not authorized pursuant to this chapter.

(b) If the department determines that there has been a disposal of hazardous waste which is not authorized pursuant to this chapter, the department shall do all of the following:

(1) Conduct, or arrange for the conducting of, tests to determine the general chemical and mineral composition of the hazardous waste.

(2) Require the city, county, or state agency which submitted the notice pursuant to subdivision (a) to prepare a hazardous waste management plan specifying those removal or remedial actions, as defined in Sections 25322 and 25323, which are needed to be taken concerning the hazardous waste. The hazardous waste management plan shall provide for the protection of human health and the environment and minimize or eliminate the escape of hazardous waste constituents, leachate, contaminated rainfall, and waste decomposition products into ground and surface waters and into the atmosphere.

(3) Send notice of the department's findings made pursuant to paragraph (1) to the county in which the land is located, the city, if any, in which the land is located, the owner of the property, and residents living within 2,000 feet of the property line of the land on which the hazardous wastes were disposed. The department shall also post signs in the vicinity of the land which contain this information and are visible to the public. The department may also provide this notice to other persons, or post these signs in any other area, to protect the public health and safety or to provide the maximum opportunity for comment from the potentially affected public.

(4) Conduct public hearings on the proposed hazardous waste management plan during those times and at those places which are convenient to the affected public. These hearings shall be conducted even if the hazardous waste management plan provides that no removal or remedial actions will be taken. The department shall publish notice of these hearings in newspapers of general circulation, as defined in Section 6000 of the Government Code, and shall use all other reasonable means to publicize these hearings.

(5) Take all actions required by Section 25358.7 concerning any proposed removal or remedial actions.

(6) Take any other actions authorized by this chapter or Chapter 6.8 (commencing with Section 25300) to carry out the legislative intent specified in Section 25242.1.

(c) The city, county, or state agency which is required to prepare

a hazardous waste management plan pursuant to paragraph (2) of subdivision (b) shall submit the proposed hazardous waste management plan for approval to the department or a California Regional Water Quality Control Board, whichever the department determines is appropriate. A city or state agency shall submit the plan to the county in which the land is located, and a county or state agency shall submit the plan to the city, if any, in which the land is located, for comments and recommendations. The city, county, or state agency shall also consider whether to incorporate any changes in the plan which are recommended by the county, city, and the public.

SEC. 7. Section 25342.1 of the Health and Safety Code is amended and renumbered to read:

25242.1. It is the intention of the Legislature, in enacting this article, to protect the public health and safety and the environment by requiring all of the following:

(a) Prompt steps to remedy the unauthorized disposal of hazardous waste on public land be taken as soon as possible.

(b) Prompt notice be given to the affected public of such an unauthorized disposal of hazardous waste.

(c) Affording the public an opportunity for input into the manner in which the hazardous waste will be cleaned up or rendered safe.

SEC. 8. Section 25342.2 of the Health and Safety Code is amended and renumbered to read:

25242.2. Prior to, or simultaneously with, utilizing the provisions of this article, the department shall diligently pursue all feasible civil and criminal actions against the owner of the land or other party responsible for the disposal of the hazardous waste, who violates this chapter or the regulations adopted pursuant to this chapter.

The owner, lessee, or lessor of any land which is affected by hazardous waste which was disposed on, under, or into the land may recover the costs incurred in complying with this article, in a civil action, from any person who produced the waste or from any other person who was responsible for the disposal of the hazardous waste.

The lessee of any land, who was not responsible for the unauthorized disposal of the hazardous waste upon that land, may also recover the costs incurred in complying with this article from the owner of the land if the person who produced the waste or who was responsible for the disposal of hazardous waste cannot be located or cannot compensate the lessee for these costs.

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

Due to the need to avoid confusion in existing law and, thus, clarify the laws used to protect the public health and safety and the environment from hazardous waste, it is necessary that this act take effect immediately.

CHAPTER 45

An act to amend Section 22507.2 of the Vehicle Code, relating to vehicle parking.

[Approved by Governor May 18, 1985. Filed with Secretary of State May 20, 1985.]

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

SECTION 1. Section 22507.2 of the Vehicle Code is amended to read:

22507.2. Notwithstanding subdivision (e) of Section 22500, a local authority may, by ordinance, authorize the owner or lessee of property to park a vehicle in front of the owner's or lessee's private driveway when the vehicle displays a permit issued pursuant to the ordinance authorizing such parking.

The local authority may charge a nonrefundable fee to defray the costs of issuing and administering the permits.

A local ordinance adopted pursuant to this section may not authorize parking on a sidewalk in violation of subdivision (f) of Section 22500.

CHAPTER 46

An act to amend Sections 365 and 448 of the Streets and Highways Code, relating to state highways.

[Approved by Governor May 18, 1985. Filed with Secretary of State May 20, 1985]

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

SECTION 1. Section 365 of the Streets and Highways Code is amended to read:

365. Route 65 is from:

(a) Route 99 near Bakersfield to Route 198 near Exeter.

(b) Route 198 near Exeter to Route 80 near Roseville on a route along the easterly side of the San Joaquin Valley, which route may include all or portions of any existing state highway route.

(c) Route 80 near Roseville to Route 70 near Marysville.

(d) Route 70 near Marysville to Route 99 in or near Yuba City.

SEC. 2. Section 448 of the Streets and Highways Code is amended to read:

448. (a) Route 148 is from Route 5 near Sacramento to Route 143 south of Route 16.

(b) Route 143 south of Route 16 to Route 65.

CHAPTER 47

An act to amend Section 22102 of the Vehicle Code, relating to vehicles.

[Approved by Governor May 18, 1985. Filed with Secretary of State May 20, 1985.]

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

SECTION 1. Section 22102 of the Vehicle Code is amended to read:

22102. No person in a business district shall make a U-turn, except at an intersection, or on a divided highway where an opening has been provided in accordance with Section 21651. This turning movement shall be made as close as practicable to the extreme left-hand edge of the lanes moving in the driver's direction of travel immediately prior to the initiation of the turning movement, when more than one lane in the direction of travel is present.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 48

An act to amend Section 25851 of the Government Code, and to amend Sections 2270, 2316, and 2866 of the Health and Safety Code, relating to pest abatement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 18, 1985 Filed with Secretary of State May 20, 1985.]

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

SECTION 1. Section 25851 of the Government Code is amended to read:

25851. (a) On or before August 10th of each year, the board of supervisors may adopt an ordinance to fix an emergency mosquito abatement standby charge in the county or any portion of the county, whether incorporated or unincorporated.

(b) The ordinance shall establish schedules varying the charges according to land uses. The emergency mosquito abatement standby charge shall not exceed ten dollars ($10) per year for each parcel of land on which the charge is levied.

(c) The ordinance shall not apply to any parcel which is subject to an emergency mosquito abatement standby charge ordinance adopted by a mosquito abatement district, vector control district, or pest abatement district, nor shall it apply to any parcel which is owned by a local agency, as defined by Section 2211 of the Revenue and Taxation Code.

SEC. 2. Section 2270 of the Health and Safety Code is amended to read:

2270. The district board may do all of the following:

(a) Take all necessary or proper steps for the control of mosquitoes, flies, or other vectors, either in the district or in territory not in the district but so situated with respect to the district that mosquitoes, flies, or other vectors may disperse from the territory into the district.

(b) Abate as nuisances all standing water and other breeding places for mosquitoes, flies, or other vectors, either in the district or in territory not in the district but so situated with respect to the district that mosquitoes, flies, or other vectors from the territory disperse into the district.

(c) Purchase the supplies and materials, employ the personnel and contract for the services which may be necessary or proper in furtherance of the objects of this chapter.

(d) If necessary or proper in the furtherance of the objects of this chapter, build, construct, repair, and maintain the necessary dikes, levees, cuts, canals, or ditches upon any land and acquire by purchase, condemnation, or by other lawful means, in the name of the district, any lands, rights-of-way, easements, property, or material necessary for any of those purposes.

(e) Make contracts to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the use or taking of property for dikes, levees, cuts, canals, or ditches.

(f) Enter upon any property without hinderance or notice, either within the district or so reasonably adjacent thereto that vectors may disperse into the district, for any of the following purposes:

(1) To inspect to ascertain the presence of vectors or their breeding places.

(2) To abate public nuisances in accordance with this article, either directly or by giving notice to the property owner to abate a nuisance.

(3) To ascertain if a notice to abate vectors has been complied with.

(4) To treat property with appropriate physical, chemical, or biological control measures.

(g) Sell or lease any service, land, rights-of-way, easements, property or material acquired by the district. Equivalent properties may be exchanged, if it is in the best interests of the district to do so.

(h) Borrow money in any fiscal year and repay it in the same or in the next ensuing fiscal year. The amount borrowed in any fiscal year shall not exceed fifteen cents ($0.15) on each one hundred

dollars ($100) of assessed valuation of property in the district.

(i) Issue warrants payable at the time stated in the warrant to evidence the obligation to repay money borrowed or any other obligation incurred by the district. Warrants so issued shall draw interest at a rate fixed by the board not to exceed 5 percent per year, payable annually or semiannually as the board may prescribe.

(j) Provide a civil service system for any or all employees of the district.

(k) Assess civil penalties, as determined in the discretion of the board, but not to exceed five hundred dollars ($500) per day for each day that a notice or hearing order to abate a nuisance has not been complied with.

Any sum which may be collected shall become part of the district's general fund to be used solely for vector control purposes.

(*l*) Levy, by resolution or ordinance, a service charge or benefit assessment against any or all parcels of land within the district to pay for the cost of inspection and protection against mosquitoes, flies, or other vectors. The schedule of charges shall be made, reviewed, and adopted annually after notice and hearing in connection with the schedule. Following the hearing, the board may classify parcels of property according to their use in relation to the cost of vector control. The board may bill for the charges annually or more frequently. The charges shall be collected and paid by the county in the same manner as property taxes by the county. The service charge shall be reasonably related to the district's cost for providing the inspection or protection and shall not be deemed a tax of any kind. Any sum collected shall be used solely for purposes of vector control.

(m) Set the tax or assessment rates which are necessary to carry out the purposes of this article.

(n) Do any and all things necessary for, or incident to, the powers granted by, and to carry out the objects specified in, this chapter.

SEC. 3. Section 2316 of the Health and Safety Code is amended to read:

2316. (a) On or before August 10th of each year, the district may adopt an ordinance to fix an emergency mosquito abatement standby charge in the district or any portion of the district.

(b) The ordinance shall establish schedules varying the charges according to land uses. The emergency mosquito abatement standby charge shall not exceed ten dollars ($10) per year for each parcel of land on which the charge is levied.

(c) Any ordinance to fix an emergency mosquito abatement standby charge shall be adopted pursuant to the provisions of Article 7 (commencing with Section 25120) of Division 2 of Title 3 of the Government Code. The ordinance shall be subject to the provisions of Chapter 4 (commencing with Section 5150) of Division 5 of the Elections Code.

(d) The ordinance shall not apply to any parcel which is owned by a local agency, as defined in Section 2211 of the Revenue and Taxation Code.

SEC. 4. Section 2866 of the Health and Safety Code is amended to read:

2866. The amount of the lien shall be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency, as provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes shall be applicable to the lien, except that if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property, but instead shall be transferred to the unsecured roll for collection.

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 that additional changes to the law relative to pest abatement for the protection of health and safety become effective as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 49

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, as herein defined, and to provide limitations of time within which actions may be commenced in connection therewith, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 24, 1985. Filed with Secretary of State May 24, 1985.]

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

SECTION 1. The following terms shall have the following meanings herein:

(a) The term "public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also means counties, cities and counties, cities, and the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.
Airport districts.
Assessment districts.
Bridge and highway districts.
Bridge, highway, and transportation districts.
California water district distribution districts.
California water district improvement districts.
California water districts.
Cemetery districts.
Citrus pest control districts.
City general improvement district improvement districts.
City general improvement districts.
City maintenance districts.
Community college districts.
Community development commissions.
Community facilities districts.
Community service district improvement districts.
Community service districts.
Conservancy districts.
Cotton pests abatement districts.
County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.

Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authorities.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local health districts.
Local hospital districts.
Metropolitan transit development boards.
Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.

Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Sewer maintenance districts.
Special community services districts.
Special transit service districts.
Special benefit assessment districts of the Southern California Rapid Transit District.
Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) The term "bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, leases, installment purchase agreements, or similar agreements in which the obligor is one or more public bodies,

certificates of participation evidencing interests in the leases or agreements, and all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, and all instruments payable from revenues or special funds of such public bodies, and all instruments funding or refunding any thereof or any indebtedness.

SEC. 2. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 3. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 4. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 5. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for the authorization, issuance, sale, or exchange of bonds of any such public body for any public purpose are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, or exchange of such bonds.

All bonds of any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued at an

election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 6. (a) The foregoing provisions of this act shall operate to supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) The foregoing provisions of this act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) The foregoing provisions of this act shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which is pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to confirm, validate, or legalize a contract between any district and the United States.

SEC. 7. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for the authorization, issuance, sale, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of such matters shall be held to be valid and in every respect legal and incontestable. This section shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 8. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner

required by said sections.

SEC. 9. As used in this act, the word "now" means the date this act takes effect; the word "heretofore" means any time prior to such effective date; and the word "hereafter" means any time subsequent to such effective date.

SEC. 10. This act may be cited as the First Validating Act of 1985.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 50

An act to amend Sections 8664.5 and 8664.7 of, and to repeal Section 8664.6 of, the Fish and Game Code, relating to fishing nets, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 24, 1985. Filed with Secretary of State May 24, 1985]

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

SECTION 1. Section 8664.5 of the Fish and Game Code is amended to read:

8664.5. (a) Notwithstanding Sections 8693 and 8724, gill nets and trammel nets shall not be used in those portions of District 17 between a line extending 220° magnetic from the mouth of Waddel Creek in Santa Cruz County and a line extending due west from Yankee Point, Carmel Highlands, in Monterey County in waters 15 fathoms or less in depth at mean lower low water, and in waters 25 fathoms or less in depth at mean lower low water between a line extending 225° magnetic from Franklin Point in San Mateo County and a line extending 220° magnetic from the mouth of Waddel Creek in Santa Cruz County.

(b) Notwithstanding Sections 8693 and 8724, gill nets and trammel nets shall not be used in that portion of District 18 north of a line extending due west from Point Sal in Santa Barbara County in waters 15 fathoms or less in depth at mean lower low water. However, the director may issue an order allowing the use of gill or trammel nets in all, or any part, of the area of District 18 south of Point San Luis in San Luis Obispo County for a specified period if he or she determines, on the basis of written findings, that the use of those nets will not result in any accidental take of sea otters. The director shall immediately rescind any order issued pursuant to this subdivision if

he or she determines that further use of those nets may result in the accidental entanglement or take of sea otters.

(c) If the director determines that the use of gill or trammel nets is having an adverse impact on any population of any species of seabird, marine mammal, or fish, the director shall issue an order prohibiting or restricting the use, method of use, size, or materials used in the construction of either or both types of those nets in all or any part of District 10 or 17, or in all or any part of District 18 north of a line extending due west from Point Conception in Santa Barbara County for a specified period. The order shall take effect no later than 48 hours after its issuance. The director shall hold a properly noticed public hearing in a place convenient to the affected area within one week of the effective date of the order to describe the action taken and shall take testimony as to the effect of the order and determine whether any modification of the order is necessary.

(d) For the purposes of this section, "adverse impact" means either of the following:

(1) The danger of irreparable injury to, or mortality in, any population of any species of seabird, marine mammal, or fish which is occurring at a rate that threatens the viability of the population as a direct result of the use of gill nets or trammel nets.

(2) The impairment of the recovery of a species listed as an endangered species or threatened species pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.) or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3) or a species of seabird, marine mammal, or fish designated as fully protected under this code, as a direct result of the use of gill nets or trammel nets.

(e) This section does not apply to any gill net with meshes 3½ inches or less in length in any portion of District 18 between Yankee Point in Monterey County and Point Sal in Santa Barbara County.

(f) The department shall explore, as alternatives to the use of gill and trammel nets, what fishing gear and methods may be used to take California halibut in areas closed pursuant to this section. The department shall consider issuing experimental gear permits pursuant to Section 8606 for authorizing the use of the alternative fishing gear and methods in the California halibut fishery in those areas.

SEC. 2. Section 8664.6 of the Fish and Game Code is repealed.

SEC. 3. Section 8664.7 of the Fish and Game Code is amended to read:

8664.7. The initial period of effectiveness of an order issued pursuant to subdivision (c) of Section 8664.5 shall not exceed 120 days. After a further public hearing, the director may, on the basis of a report prepared by the department on the condition of the local population of any species of seabird, marine mammal, or fish, extend the order for a further specified period or reissue the order for a further specified period.

SEC. 4. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution 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. 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 that marine mammals, fish, and seabirds are protected during the 1985 fishing season, it is necessary that this act take effect immediately.

CHAPTER 51

An act to add Section 66796.44 to the Government Code, relating to solid waste and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 29, 1985. Filed with Secretary of State May 30, 1985]

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

SECTION 1. Section 66796.44 is added to the Government Code, to read:

66796.44. Notwithstanding any other provision of law, a solid waste facility for the conversion of solid waste into energy shall be deemed to have been granted a permit for the purposes of this chapter and shall be deemed to be in conformance with the county solid waste management plan for the county in which the solid waste facility will be located, if all of the following conditions are met:

(a) The solid waste facility is located in a county containing a population of more than five million persons and is undertaken by an agency or entity created by a joint powers agreement between a city containing a population of between 300,000 and 500,000 persons and a county sanitation district.

(b) The requirements of subdivision (b) of Section 66796.32 have been met, and the enforcement agency has certified the permit pursuant to subdivision (c) of Section 66796.32.

SEC. 2. The Legislature hereby finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, as this act concerns a one-of-a-kind waste-to-energy pilot project which has potential to be the first operating waste-to-energy project in southern California.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting the necessity are:

Since administrative delays are jeopardizing the expeditious construction of the Southeast Resource Recovery Facility Project in the City of Long Beach, which may make the project financially unfeasible, and since the project would protect the health and safety of the public by helping to alleviate the region's lack of solid waste disposal capacity, it is necessary that this act take effect immediately.

CHAPTER 52

An act to add and repeal Section 1808.6 of the Vehicle Code, relating to driving records.

[Approved by Governor May 30, 1985. Filed with Secretary of State May 31, 1985.]

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

SECTION 1. Section 1808.6 is added to the Vehicle Code, to read:

1808.6. (a) The department may withhold from public inspection the most recent conviction on the driving record of a person whose driving record shows a point count of three or more points pursuant to Section 12810 if all of the following requirements are met:

(1) The most recent conviction has a value of one point pursuant to Section 12810.

(2) The person participated in any of the department's traffic safety programs that proved effective during the demonstration program authorized pursuant to Section 1808.6, as added by Chapter 544 of the Statutes of 1980.

(3) For a period of six months or more, the person has not been involved in a traffic accident, has not committed an offense under this code which is reportable under Section 1803 or 1816, or has not committed a violation of Section 40508.

(b) The record of a conviction withheld from public inspection under subdivision (a) shall be disclosed to any court, law enforcement agency, traffic adjudication board, or peace officer.

(c) For purposes of this section, "conviction" has the same meaning as in Sections 13103 and 13105.

(d) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute which is chaptered on or before January 1, 1991, deletes or extends that date.

CHAPTER 53

An act to amend Sections 5103, 10110, and 10110.1 of the Streets and Highways Code, relating to public works.

[Approved by Governor May 30, 1985. Filed with Secretary of State May 31, 1985]

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

SECTION 1. Section 5103 of the Streets and Highways Code is amended to read:

5103. Whenever the work or improvement includes the installation of works or appliances for supplying electric or telephone service, sanitary sewers or instrumentalities of sanitation, domestic or industrial waters supplies, or mains and appurtenances for supplying or distributing a domestic or industrial gas supply, and the territory in which the work or improvement is contemplated is within the service area of a public utility, public agency, or mutual water company supplying the service, the legislative body may, before the adoption of the resolution of intention, enter into an agreement with the public utility, public agency, or mutual water company which agreement may, among other things, provide for the following:

(a) For the supplying or approval by the public utility, public agency, or mutual water company of plans and specifications for the work or improvement.

(b) For the performance of work or service, for an allowance or contribution by the public utility, public agency, or mutual water company toward the cost of the work or service where provided for by its adopted rules or regulations, and for the payment for the work or service.

(c) That the agreement shall become effective upon the effective date of the resolution or ordinance ordering the work in proceedings taken pursuant to this division.

(d) That, after the confirmation of the assessment, the public utility, public agency, or mutual water company shall have exclusive possession, control, and use of the work or improvement as long as the public utility, public agency, or mutual water company uses the work or improvement to render to the lands within the assessment district the services intended to be furnished by the work or improvement.

SEC. 2. Section 10110 of the Streets and Highways Code is amended to read:

10110. Before the ordering of the work, acquisitions, or improvements which are to be owned, managed, or controlled by any other public agency, regulated public utility, or mutual water company, the legislative body shall enter into an agreement with the public agency, public utility, or mutual water company which has, or

may have, charge of the works, appliances, or improvements. Among other things, the agreement may provide for any or all of the following:

(a) For the supplying by the public agency, public utility, or mutual water company of plans and specifications in accordance with Chapter 5 (commencing with Section 5170) of Part 3 of Division 7.

(b) For the performance of work or service by the public agency, public utility, or mutual water agency, and the payment to the public agency, public utility, or mutual water company out of the improvement fund for the work or service. Any agreement providing for the performance of work by a public utility or mutual water company may provide for the posting of labor, material, and performance bonds in accordance with Chapter 6 (commencing with Section 10500).

(c) For the acquisition by the legislative body of works or appliances already installed and for the conveyance of these works or appliances to the public agency, public utility, or mutual water company. The owner of these works or appliances may be a party to the agreement.

(d) That the agreement shall become effective after proceedings have been taken pursuant to this division and the funds are available to carry out all the terms thereof. Whenever it is proposed to annex to the public agency the territory in which the installation or acquisition is contemplated, proceedings may be taken up to and including the confirmation of the assessment as provided for in Section 10312 prior to the commencement of the annexation proceedings. If the annexation is successful, the assessment shall be recorded and other proceedings taken that may enable the parties to comply with the terms of the agreement. If the annexation proceedings fail, further proceedings under the resolution of intention are barred.

Any agreement entered into pursuant to this section, to the extent that utilities have been financed by special assessments, shall provide that no main extension refund agreement shall be entered into with a developer.

SEC. 3. Section 10110.1 of the Streets and Highways Code is amended to read:

10110.1. If an agreement entered into pursuant to Sections 10109 and 10110 provides for the payment of refunds, and to the extent that the works, appliances, or improvements to which the refund payments are applicable are financed by special assessments, any amounts paid by the public agency, public utility, or mutual water company as a refund payment for the works, appliances, or improvements to be transferred to the public agency, public utility, or mutual water company under the agreement shall be deposited into a special fund to be established and administered by the city treasurer and applied as a credit upon the assessment and supplemental assessment, if any, in the same manner as provided in

Section 10427.1. The credits shall be applied only to the assessments levied for the particular improvements for which the refund is made. Any such amounts shall be transferred to the general fund of the city if either of the following occurs:

(a) The amounts are paid later than four years from the date of recordation of the assessment and any supplemental assessment.

(b) If bonds have been issued, the amounts have been paid later than four years after the due date of the last installment upon the bonds or of the last principal coupons attached thereto.

CHAPTER 54

An act to repeal Sections 22312, 22313, and 22314 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor June 4, 1985 Filed with Secretary of State June 4, 1985.]

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

SECTION 1. Section 22312 of the Education Code, as added by Chapter 1194 of the Statutes of 1982, is repealed.

SEC. 2. Section 22313 of the Education Code is repealed.

SEC. 3. Section 22314 of the Education Code is repealed.

SEC. 4. It is the intent of the Legislature, in enacting this act, to repeal provisions which were made unnecessary by the adoption by the voters on June 5, 1984, of Proposition No. 21 (Resolution Chapter 105 of the Statutes of 1983), which amended Section 17 of Article XVI of the California Constitution.

CHAPTER 55

An act to amend Sections 56460 and 56461 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 4, 1985 Filed with Secretary of State June 4, 1985]

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

SECTION 1. Section 56460 of the Education Code is amended to read:

56460. The Superintendent of Public Instruction shall establish an Awareness Program to help make nonhandicapped pupils aware of the special problems encountered by individuals with exceptional needs, and how those individuals overcome their problems. The

program shall be conducted as a pilot project established in up to six school districts selected pursuant to Section 56461. The purposes of the Awareness Program shall be to do all of the following:

(a) To impart knowledge about individuals with exceptional needs.

(b) To minimize the isolation of individuals with exceptional needs by breaking down barriers created by lack of understanding, fear, and curiosity.

(c) To increase the awareness of nonhandicapped pupils and teachers regarding physical barriers faced by individuals with exceptional needs, including, but not limited to, architectural barriers and transportation difficulties.

(d) To demonstrate ways to increase the peer status and self-esteem of the disabled student.

SEC. 2. Section 56461 of the Education Code is amended to read:

56461. The superintendent shall solicit requests from school districts maintaining the grades kindergarten and 1 to 8, inclusive, to participate in the Awareness Program. The superintendent shall select up to six of these school districts located in the northern, central, and southern parts of the state to participate in the Awareness Program, based upon all of the following criteria:

(a) The content and activities of the district's awareness program are designed to promote positive attitudes towards individuals with exceptional needs among other pupils by increasing their knowledge of, and experience with, individuals with exceptional needs.

(b) The program training staff includes individuals with disabilities who are experienced in providing awareness programs to nonhandicapped pupils.

(c) The district has adopted a plan to disseminate the results of the pilot program to the other elementary and secondary schools located in the district.

(d) The district's budget for the development and implementation of the awareness program shall not exceed thirty-five thousand dollars ($35,000).

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

In order to ensure that this act encompasses all school districts in the state that maintain elementary school grade levels, and to begin eliminating in those districts the social and psychological barriers that tend to separate nonhandicapped pupils from their peers who are individuals with exceptional needs, it is necessary that this act take effect immediately.

CHAPTER 56

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

[Approved by Governor June 4, 1985 Filed with Secretary of State June 4, 1985.]

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

SECTION 1. The sum of seven million five hundred thousand dollars ($7,500,000) is hereby appropriated from the State Highway Account in the State Transportation Fund for allocation to the State Department of Transportation in augmentation of Item 2660-001-042 of the Budget Act of 1984 (Chapter 258, Statutes of 1984) to be expended for the purposes of category (a) of the item for the payment of tort liability settlements and judgments.

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 meet court-ordered obligations in regard to unanticipated recent tort liability judgments, additional monies must be appropriated to the Department of Transportation during the current fiscal year.

CHAPTER 57

An act to add Sections 10035 and 11008 to the Business and Professions Code, relating to real property sales.

[Approved by Governor June 4, 1985. Filed with Secretary of State June 4, 1985.]

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

SECTION 1. Section 10035 is added to the Business and Professions Code, to read:

10035. Neither Section 10185 nor any other provision of this part which makes violation of this part a crime shall be construed to preclude application of any other criminal provision of the law of this state to an act or omission which constitutes a violation of this part.

SEC. 2. Section 11008 is added to the Business and Professions Code, to read:

11008. No provision of this part which makes a violation of this part a crime shall be construed to preclude application of any other criminal provision of the law of this state to an act or omission which

constitutes a violation of this part.

CHAPTER 58

An act to amend Section 8153.5 of the Education Code, relating to apprenticeship education.

[Approved by Governor June 4, 1985. Filed with Secretary of State June 4, 1985.]

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

SECTION 1. Section 8153.5 of the Education Code is amended to read:

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

(a) The classes are conducted at the workplace.

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

CHAPTER 59

An act to amend Section 61601.10 of the Government Code, relating to community services districts.

[Approved by Governor June 4, 1985. Filed with Secretary of State June 4, 1985.]

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

SECTION 1. Section 61601.10 of the Government Code is amended to read:

61601.10. In addition to the powers which may be exercised pursuant to Section 61600, whenever the Board of Directors of the El Dorado Hills Community Services District or the Salton Community Services District determines by resolution, entered in the minutes, that it is feasible, economically sound, and in the public interest, and if a majority of the voters voting on the proposition vote in favor of the adoption of the additional purpose pursuant to Section 61601, the district may enforce the covenants, conditions, and restrictions adopted for each tract within the boundaries of the

district, and assume the duties of the architectural control committee for each tract within the boundaries of the district and for other tracts as may be annexed from time to time, for the purpose of maintaining uniform standards of development within the district as adopted in the covenants, conditions, and restrictions. However, the district shall exercise the duties of an architectural control committee for any tract only to the extent authorized by the covenants, conditions, and restrictions applicable to the tract.

The power to carry on that activity may be divested in the same manner as the power was acquired.

For the purposes of this section, "tract" means any parcel of land for which the county has authorized development.

CHAPTER 60

An act to amend Sections 60545, and 60604 of, and to repeal Section 60601 of, the Government Code, relating to districts.

[Approved by Governor June 4, 1985. Filed with Secretary of State June 4, 1985]

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

SECTION 1. Section 60545 of the Government Code is amended to read:

60545. In the ordinance calling the election, the legislative body of the city shall establish one or more voting precincts for the election within the boundaries of the proposed district.

SEC. 2. Section 60601 of the Government Code is repealed.

SEC. 3. Section 60604 of the Government Code is amended to read:

60604. All vacancies occurring in the office of a director shall be filled as provided in Section 1780.

CHAPTER 61

An act to amend Section 27472 of the Government Code, relating to coroners.

[Approved by Governor June 5, 1985. Filed with Secretary of State June 5, 1985.]

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

SECTION 1. Section 27472 of the Government Code is amended to read:

27472. If authorized by the county board of supervisors by

ordinance, the coroner, whenever he or she takes custody of a dead body pursuant to law, may charge and collect from the person entitled to control the disposition of the remains, as specified in Section 7100 of the Health and Safety Code, the actual expense incurred by the coroner in removing the body from the place of death and keeping the body until its release to the person responsible for its interment. The charge shall not exceed one hundred dollars ($100), shall not be imposed upon a person who claims and proves to be indigent, or in cases in which the body is that of a child not more than 14 years of age or in cases in which the coroner ascribes the death to the criminal act of another unless the coroner has reasonable grounds to believe that the deceased was involved in any criminal activity which contributed to his or her own death. The charge shall not include expenses of keeping the body during the time necessary for the coroner to perform his or her duties in connection with it. The charge, if not paid, may be considered a part of the funeral expenses and paid as a preferred charge against the estate of the decedent.

CHAPTER 62

An act relating to the California Exposition and State Fair, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 6, 1985 Filed with Secretary of State June 6, 1985.]

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

SECTION 1. (a) The sum of two million two hundred thousand dollars ($2,200,000) is hereby appropriated from the General Fund to the Controller for allocation to the California Exposition and State Fair for its support expenditures in the 1984–85 fiscal year and for payment of valid claims submitted to the Controller pursuant to law.

SEC. 2. On or before September 1, 1985, the General Manager of the California Exposition and State Fair shall submit a report to chairpersons of the fiscal committees of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee on the status of the Fair's negotiations with the County of Sacramento regarding Bushy Lake.

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

In order for this act to take effect in the 1984–85 fiscal year, it is necessary that the act take effect immediately.

CHAPTER 63

An act to repeal and add Section 72425 of the Education Code, relating to community colleges.

[Approved by Governor June 6, 1985 Filed with Secretary of State June 6, 1985]

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

SECTION 1. Section 72425 of the Education Code is repealed.

SEC. 2. Section 72425 is added to the Education Code, to read:

72425. (a) In any community college district in which the average daily attendance exceeds 60,000, and which is not located in a city and county, or in any community college district in which the average daily attendance exceeded 60,000 in the 1982–83 school year or any subsequent school year, and which is not located in a city and county, the governing board may prescribe, as compensation for the services of each member of the board who actually attends all meetings held by the board, a sum not to exceed one thousand five hundred dollars ($1,500) in any month. In any community college district in which the average daily attendance for the school year 1982–83 was less than 60,000, except a district which also comes within the terms of the preceding sentence, but more than 25,000, each member of the governing board of the district who actually attends all meetings held by the board, may receive as compensation for his or her services a sum not to exceed seven hundred fifty dollars ($750) in any month. In any community college district in which the average daily attendance for the school year 1982–83 was 25,000 or less but more than 10,000, each member of the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed four hundred dollars ($400) in any month. In any community college district in which the average daily attendance for the 1982–83 school year was 10,000 or less, but more than 1,000, each member of the governing board of the district who actually attends all meetings held by the board may receive as compensation for his or her services a sum not to exceed two hundred forty dollars ($240) in any month. In any community college district in which the average daily attendance for the 1982–83 school year was 1,000 or less but more than 150, each member of the governing board of the district who actually attends all meetings held by the board may receive as compensation for his or her services a sum not to exceed one hundred twenty dollars ($120) in any month.

Any member of a governing board who does not attend all meetings held by the board in any month may receive, as compensation for his or her services, an amount not greater than a pro rata share of the number of meetings actually attended based upon the maximum compensation authorized by this subdivision.

(b) The compensation of members of the governing board of a community college district newly organized or reorganized after June 30, 1983, shall be governed by subdivision (a). For purposes of the total average daily attendance in all of the community colleges of the district in the school year in which the organization or reorganization became effective pursuant to Section 4062 shall be deemed to be the average daily attendance in the district for the 1982–83 school year.

(c) A member may be paid for any meeting when absent if the board by resolution duly adopted and included in its minutes finds that at the time of the meeting he or she is performing services outside the meeting for the community college district. The compensation shall be a charge against the funds of the district.

(d) Notwithstanding any provision of law to the contrary, any member of the governing board of the community college district who also is a member of, and entitled to receive benefits from, any public retirement or pension system administered by the Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System may elect to forego any compensation provided by subdivision (a), (b), or (c) and, if the compensation is foregone, the member shall not have his or her retirement benefits reduced and shall not be required to be reinstated in his or her retirement system.

CHAPTER 64

An act to amend Section 1279.5 of the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 6, 1985 Filed with Secretary of State June 6, 1985.]

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

SECTION 1. Section 1279.5 of the Unemployment Insurance Code is amended to read:

1279.5. (a) Notwithstanding Section 1252 or 1252.2 or any other provision of this part, for the purposes of this section an individual is "unemployed" in any week if the individual works less than his or her normal weekly hours of work for the individual's regular employer, and the director finds that the regular employer has reduced or restricted the individual's normal hours of work, or has rehired an individual previously laid off and reduced that individual's normal hours of work from those previously worked, as the result of a plan by the regular employer to, in lieu of layoff, reduce employment and stabilize the work force by a program of sharing the work remaining after a reduction in total hours of work

and a corresponding reduction in wages of at least 10 percent. The application for approval of a plan shall require the employer to briefly describe the circumstances requiring the use of work sharing to avoid a layoff. Normal weekly hours of work means the number of hours in a week that the employee normally would work for the regular employer or 40 hours, whichever is less. The plan must involve the participation of at least two employees and include not less than 10 percent of the employer's regular permanent work force involved in the affected work unit or units in each week, or in at least one week of a two-consecutive-week period. A plan approved by the director shall expire six months after the effective date of the plan.

(b) Except as otherwise provided in this section, each individual eligible under this chapter who is "unemployed" in any week shall be paid with respect to that week a weekly shared work unemployment compensation benefit amount equal to the percentage of reduction of the individual's wages resulting from an approved plan, rounded to the nearest 5 percent, multiplied by the individual's weekly benefit amount.

(c) No individual who receives any benefits under this section during any benefit year shall receive any benefits pursuant to Section 1252 or 1252.2 as a partially unemployed individual with respect to any week during such benefit year while in employment status with the regular employer who initiated the program of sharing work under this section. No benefits under this section shall be payable on any type of extended claim.

(d) Any amount payable under this section shall be reduced by the amount of any and all compensation payable for personal services whether performed as an employee or an independent contractor or as a juror or as a witness, except compensation payable by the regular employer under a shared work plan.

For the purposes of this subdivision, "regular employer" may include, pursuant to an approved plan, a labor organization which periodically employs individuals in accordance with a collective bargaining agreement.

(e) The benefit payment under this section, if not a multiple of one dollar ($1), shall be increased to the next higher multiple of one dollar ($1).

(f) Section 1279 shall not apply to any individual eligible for any payment under this section.

(g) For the purposes of this section, an individual shall not be disqualified under subdivision (c) of Section 1253 for any week if both of the following conditions exist:

(1) The individual has not been absent from work without the approval of the regular employer.

(2) The individual accepted all work the regular employer made available to the individual during hours scheduled off due to the worksharing plan.

(h) Except as otherwise provided by or inconsistent with this section, all provisions of this division and authorized regulations

apply to benefits under this section. Authorized regulations may, to the extent permitted by federal law, make such distinctions and requirements as may be necessary in the procedures and provisions applicable to unemployed individuals to carry out the purposes of this section, including regulations defining normal hours, days, workweek, and wages.

(i) Employees shall not be eligible to receive any benefits under this section unless their employer agrees, in writing, and their bargaining agent pursuant to any applicable collective bargaining agreement agrees, in writing, to voluntarily participate in the shared work unemployment insurance benefit program created by this section.

(j) Notwithstanding Section 1327, the department shall not be required to notify an employer of additional claims which result from an approved plan submitted by the employer under which benefits are not paid in each week.

(k) The director may terminate a shared work plan for good cause if the plan is not being carried out according to its terms and intent.

(*l*) This section shall remain in effect only until December 31, 1986, and on that date is repealed.

SEC. 2. This act shall be operative with respect to employer shared work unemployment insurance plans in effect on and after April 1, 1985, and with respect to weeks of unemployment beginning after that date.

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

In order to prevent hardships for workers and employers due to scheduled expiration of shared work unemployment compensation benefit programs under existing law, it is necessary that this act take effect immediately.

CHAPTER 65

An act to amend Sections 8573, 8650, 8650.1, 8651, 8652, 8653, 8654, 8671, 8672, 8681, 8687, 8688, 8750, 8751, 8752, 8763, 8766, 8770, 8771, 8772, 8773, 8775, 8776, 8850, 9600, 9605, 9606, 9607, 9609, and 9610 of, to add Sections 8651.5 and 10204.2 to, and to repeal Sections 8673, 8682.2, 8751.5, and 8764 of, the Streets and Highways Code, relating to improvement bonds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 6, 1985. Filed with Secretary of State June 6, 1985.]

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

SECTION 1. Section 8573 of the Streets and Highways Code is amended to read:

8573. The bond declaration in the resolution of intention, assessment, and notice of recording the assessment may be substantially in the following form:

"Notice is hereby given that serial bonds to represent unpaid assessments, and to bear interest at the rate of not to exceed _____ percent per annum, will be issued hereunder in the manner provided by Division 10 of the Streets and Highways Code, the Improvement Bond Act of 1915, and the last installment of such bonds shall mature _____ years from the second day of September next succeeding 12 months from their date."

SEC. 2. Section 8650 of the Streets and Highways Code is amended to read:

8650. Except as the legislative body shall provide otherwise under Section 8650.1, the bonds shall be issued in series and an even annual proportion of the aggregate principal sum thereof shall be payable on the second day of September every year succeeding the first 12 months after their date, until the whole is paid. The bonds shall bear interest at a rate not in excess of the maximum rate permitted by law from the 31st day after recording the assessment, or from their date if the work was done under the Municipal Improvement Act of 1913, on all sums unpaid, until the whole of the principal sum and interest are paid.

Interest shall be payable semiannually on the second day of March and September, respectively, of each year. The first payment of interest shall become due on the interest payment date which is six months before the maturity of the first series of bonds, but, if any portion of the interest is funded, the legislative body may specify that the first payment of interest shall become due on any earlier interest payment date following the date of the bonds. Interest shall be payable to the registered holders of the bonds as their names and addresses appeared on the records of the issuing agency or its registration agent on the 15th day preceding the interest payment date.

SEC. 3. Section 8650.1 of the Streets and Highways Code is amended to read:

8650.1. The legislative body, in its discretion, may determine, either (a) in the resolution of intention describing the improvement work, or (b) thereafter in the change proceedings taken under and in accordance with the provisions of the same act under which the resolution of intention was adopted, that the principal amount of the bonds maturing each year shall be other than an amount equal to an even annual proportion of the aggregate principal of the bonds, and it may determine that the amount of principal maturing in each year plus the amount of interest payable in that year will be an aggregate amount that is equal each year, except for the moneys falling due on

the first series of the bonds which shall be adjusted to reflect the amount of interest earned from the date when the bonds bear interest to the date when the first interest is payable on the bonds; or it may make other determination of the amount of the aggregate principal of the bonds that shall fall due in a year as it shall choose.

Notwithstanding Section 8652, the legislative body may prescribe the form of the bonds and shall fix the date of the bonds. The legislative body may divide the principal amount of any issue into two or more divisions and fix different dates for the payment of bonds of each division. The bonds of one division may be made payable at different times than bonds of any other division.

The legislative body, in its discretion, may determine in like manner to classify assessments into different terms of maturity so that smaller assessments may be made to mature over a shorter period of time and, in that event, the bond declaration in the resolution of intention, or in the change proceedings taken under and in accordance with the provisions of the same act under which the resolution of intention was adopted, in the assessment, and in the notice of recording the assessment may recite that the last installment of bonds shall mature a maximum rather than an exact number of years from the second day of September next succeeding 12 months from their date.

SEC. 4. Section 8651 of the Streets and Highways Code is amended to read:

8651. The final series of installment of the bonds shall mature and be payable on a date which shall not exceed 39 years from the second day of September next succeeding 12 months from their date.

SEC. 5. Section 8651.5 is added to the Streets and Highways Code, to read:

8651.5. Each bond, or any portion of the bond in a fixed amount or any integral multiple of the fixed amount, shall be subject to redemption in advance of its maturity on any interest payment date upon payment to the registered owner of the principal and accrued interest to the date of redemption together with a redemption premium equal to 5 percent of the principal. At or before issuance of the bonds, the legislative body may reduce the redemption premium to an amount equal to not less than 3 percent of the principal.

SEC. 6. Section 8652 of the Streets and Highways Code is amended to read:

8652. The bonds shall be substantially in the following form:

United States of America
State of California
County of _____

REGISTERED	REGISTERED
Number	$

IMPROVEMENT BOND
City (or County) of (naming it)

SERIES NO. _____

INTEREST RATE	MATURITY DATE	BOND DATE	CUSIP NUMBER
		_____, 19__	

Under and by virtue of the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code (the "Act"), the City (or County) of _____, County of _____, State of California, (the "City" or "County") will, out of the redemption fund for the payment of the bonds issued upon the unpaid portion of assessments made for the acquisition, work, and improvements more fully described in proceedings taken pursuant to Resolution of Intention No. _____, adopted by the (legislative body) of the City (or County) of _____ on the _____ day of _____, 19__, (as later amended), pay to _____ or registered assigns, on the maturity date stated above, the principal sum of _____, in lawful money of the United States of America and in like manner will pay interest from the interest payment date next preceding the date on which this bond is authenticated, unless this bond is authenticated and registered as of an interest payment date, in which event it shall bear interest from such interest payment date, or unless this bond is authenticated and registered prior to _____, 19__, (first interest payment date) in which event it shall bear interest from its date, until payment of such principal sum shall have been discharged, at the rate per annum stated above, payable semiannually on March 2 and September 2 in each year commencing on _____, 19____. Both the principal hereof and redemption premium hereon are payable at _____ as Transfer Agent, Registrar, and Paying Agent, in _____, California, and the interest hereon is payable by check or draft mailed to the owner hereof at the owner's address as it appears on the records of the _____ (issuing agency or registration agent) or at such address as may have been filed with the _____ (issuing agency or registration agent) for that purpose, as of the 15th day immediately preceding each interest payment date.

This bond will continue to bear interest after maturity at the rate above stated; provided, it is presented at maturity and payment thereof is refused upon the sole ground that there are not sufficient moneys in said redemption fund with which to pay same. If it is not presented at maturity, interest thereon will run until maturity.

This bond shall not be entitled to any benefit under the Act or the Resolution Authorizing Issuance of Bonds (the "Resolution of Issuance"), or become valid or obligatory for any purpose, until

the certificate of authentication and registration hereon endorsed shall have been dated and signed by the _____ (issuing agency or registration agent).

IN WITNESS WHEREOF, said City (or County) of _____ has caused this bond to be signed in facsimile by the Treasurer of said City (or County) and by its Clerk, and has caused its corporate seal to be reproduced in facsimile hereon all as of the _____ day of _____, 19__.

CITY (OR COUNTY) OF _____

_____ _____

Clerk Treasurer

[SEAL]

Certificate of Authentication and Registration

This is one of the bonds described in the within mentioned Resolution of Issuance, which has been authenticated and registered on

By _____

ADDITIONAL PROVISIONS OF THE BOND

This bond is one of several annual series of bonds of like date, tenor, and effect, but differing in amounts, maturities, and interest rates, issued by the City (or County) of _____ under the Act and the Resolution of Issuance, for the purpose of providing means for paying for the improvements described in the proceedings, and is secured by the moneys in said redemption fund and by the unpaid portion of said assessments made for the payment of said improvements, and, including principal and interest, is payable exclusively out of said fund.

This bond is transferable by the registered owner hereof, in person or by the owner's attorney duly authorized in writing, at the office of _____ (issuing agency or its registration agent), subject to the terms and conditions provided in the Resolution of Issuance, including the payment of certain charges, if any, upon surrender and cancellation of this bond. Upon such transfer, a new registered bond or bonds, of any authorized denomination or denominations, of the same maturity, for the same aggregate principal amount, will be issued to the transferee in exchange therefor.

Bonds shall be registered only in the name of an individual (including joint owners), a corporation, a partnership, or a trust.

Neither the issuing agency nor the registration agent shall be required to make such exchange or registration of transfer of bonds during the 15 days immediately preceding any interest payment date.

The issuing agency and the registration agent may treat the owner hereof as the absolute owner for all purposes, and the issuing agency and the registration agent shall not be affected by any notice to the contrary.

This bond or any portion of it in the amount of five thousand dollars ($5,000), or any integral multiple thereof, may be redeemed and paid in advance of maturity upon the second day of March or September in any year by giving at least 60 days' notice by registered mail to the registered owner hereof at the owner's address as it appears on the registration books of the _____ (issuing agency or registration agent) by paying principal and accrued interest together with a premium equal to _____ percentum of the principal.

I hereby certify that the following is a correct copy of the signed legal opinion of _____

City (or County) Clerk

SEC. 7. Section 8653 of the Streets and Highways Code is amended to read:

8653. The bonds shall be signed by the treasurer and the clerk. However, the legislative body may by order authorize the use upon the bonds of an engraved, printed, or lithographed signature of the treasurer and the clerk in place of a signature by hand. It may also authorize the seal to be placed in like manner on the bonds.

SEC. 8. Section 8654 of the Streets and Highways Code is amended to read:

8654. The bonds shall bear interest at the rate specified or determined in the proceedings. The bonds maturing in any year shall constitute the annual series of that year and the aggregate principal of the bonds in such series shall equal the annual proportion of the aggregate principal sum of the entire bond issue hereinbefore referred to.

SEC. 9. Section 8671 of the Streets and Highways Code is amended to read:

8671. The treasurer shall keep a redemption fund designated by the name of the bonds, into which he shall place all sums received by him from the collection of the assessments made for the payment of the cost of the work or improvements upon which the bonds are issued and of the interest and penalties thereon and from which fund he shall disburse and pay the bonds and the interest due thereon. Under no circumstances shall the bonds or the interest thereon be paid out of any other fund.

SEC. 10. Section 8672 of the Streets and Highways Code is amended to read:

8672. The treasurer shall keep a register in his office showing

the series, number, date, amount, rate of interest, and registered holder of each bond, and the number and amount of each interest payment paid by him. He shall cancel and file each bond which he pays.

SEC. 11. Section 8673 of the Streets and Highways Code is repealed.

SEC. 12. Section 8681 of the Streets and Highways Code is amended to read:

8681. Interest on all unpaid assessments shall begin to run from the date of filing of the contractor's statement, or as otherwise provided in the law pursuant to which the work was done or from 30 days after the first publication of notice of recording the assessment, if the work was done under the Street Opening Act of 1903, or from the date of the bonds if the work was done under the Municipal Improvement Act of 1913, and shall be computed at the rate specified in the bonds secured by such assessments. Such interest shall for each year be computed and collected up to the next second day of September succeeding, no deduction being made by reason of any installment of such assessment being due or paid prior thereto in such year.

SEC. 13. Section 8682.2 of the Streets and Highways Code is repealed.

SEC. 14. Section 8687 of the Streets and Highways Code is amended to read:

8687. Any assessment may be paid by depositing with the treasurer the total unpaid balance due on the assessment together with the total interest which would become due on the assessment if it were paid in the regular way. If the amount of the payment, along with prepayments of other assessments, is sufficient to provide surplus moneys with which to redeem any bond outstanding and not due on the next succeeding second day of September, the treasurer shall then give the proper notice for redeeming such bond, by advancing its maturity in accordance with the provisions of Part 11 upon which redemption the person paying the assessment shall be entitled to credit and reimbursement for the par value of any interest payments thereon which shall be canceled but not paid less any accrued interest paid thereon and less the premium paid on the bond, and less any costs incurred for administering the retirement of the bond.

SEC. 15. Section 8688 of the Streets and Highways Code is amended to read:

8688. Any interested owner shall have the right to tender to the treasurer in payment or part payment of any installment of his assessment or interest or penalties thereon which may be due or payable, any bond secured thereby, the said bond to be taken at par and credit to be given for the accrued interest shown thereby computed to date of such tender. The treasurer shall thereupon cancel such bond and shall cause proper credit therefor to be entered on the records of such assessment, in the office of the

auditor and tax collector.

SEC. 16. Section 8750 of the Streets and Highways Code is amended to read:

8750. By proceeding in accordance with the provisions of this part the treasurer may advance the maturity of any bond to the second day of March or September in any year and pay and cancel the same whenever there is sufficient surplus moneys in the redemption fund for its retirement.

SEC. 17. Section 8751 of the Streets and Highways Code is amended to read:

8751. Notice of advanced maturity shall be given in writing to the registered holder or owner of the bond by registered mail or personal service. Service or mailing of the notice shall be made at least 60 days before the date fixed for advanced maturity.

SEC. 18. Section 8751.5 of the Streets and Highways Code is repealed.

SEC. 19. Section 8752 of the Streets and Highways Code is amended to read:

8752. If notice of advanced maturity is given, the bond shall mature and become payable on the date fixed for maturity in the notice. The holder or owner of the bond may prior to the date of advanced maturity surrender it and receive the principal and interest thereon to the date of payment together with the redemption premium provided for the bond. If the bond has not been sooner surrendered on the date fixed for advanced maturity, the treasurer shall set aside to the credit of the owner of the bond the amount of principal and accrued interest then due on the bond together with the redemption premium and the bond shall then be deemed to have matured and interest shall cease to accrue on the bond. The amount so set aside shall upon demand and upon the surrender and cancellation of the bond be paid to the holder or owner of the bond.

SEC. 20. Section 8763 of the Streets and Highways Code is amended to read:

8763. An annual installment of interest on the unpaid assessments shall be payable and be collected in each year corresponding in amount to the amount of interest which will accrue on the bonds outstanding for said year, and which shall be sufficient to pay the interest thereon which shall become due in the next succeeding March and September.

SEC. 21. Section 8764 of the Streets and Highways Code is repealed.

SEC. 22. Section 8766 of the Streets and Highways Code is amended to read:

8766. The amount to be paid by the owner shall be the total of the following sums:

(a) The amount of any delinquent installments of principal and interest, together with penalties, interest, and costs due thereon.

(b) Any installment of principal and interest which has been

posted to the tax roll for said fiscal year.

(c) The unpaid balance of principal thereof, plus a percentage of said balance equaling the percentage established for the redemption premium on the bonds.

(d) An amount to be fixed by the treasurer for administering the advanced redemption of the bonds.

(e) Interest to the date of call on the amount of principal to be used for call, less the amount of interest in (b) above. If the amount of principal is in excess of the amount for which bonds may be called, additional interest shall be collected on the excess for an additional six months.

SEC. 23. Section 8770 of the Streets and Highways Code is amended to read:

8770. If it appears to the treasurer that there is danger of an ultimate loss accruing to the bondholders for any reason, he shall withhold payment on all matured bonds and interest and report the facts to the legislative body so that proper action may be taken by that body to equitably protect all bondholders.

SEC. 24. Section 8771 of the Streets and Highways Code is amended to read:

8771. On receipt of the report, the legislative body shall fix a date for hearing thereon. The clerk shall give notice of the hearing by posting for 10 days. At the hearing the legislative body shall determine whether in its judgment there will ultimately be insufficient money in the redemption fund to discharge the unpaid bonds and interest. If it determines that in its judgment there will be no such shortage, it shall direct the treasurer to pay matured bonds and interest as long as there is available money in the redemption fund.

SEC. 25. Section 8772 of the Streets and Highways Code is amended to read:

8772. If the legislative body determines that in its judgment there will be a shortage in the redemption fund, it shall direct the treasurer to pay to the holders of all outstanding and unpaid bonds such proportion thereof as the amount of funds on hand bears to the total amount of the unpaid principal of the bonds and the interest which has accrued or will accrue thereon. Similar proportionate payments shall thereafter be made periodically as moneys come into the redemption fund.

SEC. 26. Section 8773 of the Streets and Highways Code is amended to read:

8773. In order to facilitate the making of proportionate payments, the holders of outstanding bonds shall surrender them to the treasurer for registration and cancellation. Upon such cancellation each holder shall be credited with the amount of his bond so canceled. Thereupon the treasurer shall by warrant pay to each holder such proportionate amount of principal and accrued interest due on his bonds as may be available from time to time out of the money in the redemption fund. Interest shall

cease on payments made on account of principal from the date of payment, but interest shall continue to run on the unpaid principal at the rate specified in such bonds until payment thereof be made. No premiums shall be paid on payments made in advance of the due date. If bonds are not surrendered for registration and payment the treasurer shall give notice to the holder thereof by registered mail, at the holder's address as last known to the treasurer, of the amount available for payment. Thereupon interest shall cease as to the amount so available for payment 10 days from the date of mailing of the notice.

SEC. 27. Section 8775 of the Streets and Highways Code is amended to read:

8775. If a deficiency occurs in the redemption fund with which to pay past due bonds, past due interest, or bonds or interest which will become due during the current tax collecting year, but it does not appear to the treasurer that there will be an ultimate loss to the bondholders, he shall pay matured bonds as presented and make interest payments when due as long as there are available funds in the redemption fund, in the following order of priority:

(1) All matured interest payments shall be made before the principal of any bonds is paid.

(2) Interest on bonds of earlier maturity shall be paid before interest on bonds of later maturity.

(3) Within a single maturity, interest on lower-numbered bonds shall be paid before interest on higher-numbered bonds.

(4) The principal of bonds shall be paid in the order in which the bonds are presented for payment. Any bond which is presented but not paid shall be assigned a serial number according to the order of presentment and shall be returned to the bondholder.

Bonds not paid when presented, and interest payments not paid when due, shall bear interest at the rate stated in the bonds, without compounding, until paid.

SEC. 28. Section 8776 of the Streets and Highways Code is amended to read:

8776. When funds become available for the payment of any bond which was not paid upon presentment, the treasurer shall notify the registered owner thereof by registered mail to present the bond for payment. If the bond is not presented for payment within 10 days after the mailing of the notice, interest shall cease to run on the bond.

SEC. 29. Section 8850 of the Streets and Highways Code is amended to read:

8850. No bond, assessment, or installment thereof or of the interest or penalties thereon, or certificate of sale or deed shall be held invalid for any error in the computation of the proper amount due on the same, if the error is found to be comparatively negligible, or is found to be in favor of the owner of the real property affected thereby.

SEC. 30. Section 9600 of the Streets and Highways Code is amended to read:

9600. In this chapter, the following terms are used with the following meanings:

(a) "Costs of issuing refunding bonds" means those of the following costs and expenses which are designated by the legislative body in the resolution providing for the issuance of the bonds.

(1) All expenses incident to the calling, retiring, or paying of the bonds to be refunded and to the issuance of refunding bonds, including any bond counsel, financial consultants, underwriters, and rating agency fees, printing and advertising costs, city administrative expenses, and the charges of any escrow agent or trustee in connection with the issuance of the refunding bonds or in connection with the redemption or retirement of the bonds to be refunded.

(2) Interest upon the refunding bonds from the September 2 next preceding the date of sale thereof to no later than the September 2 next succeeding two years from the date.

(3) Any accrued and unpaid interest on the bonds to be refunded.

(4) Any premium necessary in the calling or retiring of the bonds to be refunded.

(b) "Designated costs of issuing the refunding bonds" means whichever of the items specified in paragraphs (1), (2), (3), and (4) of subdivision (a) which are designated by the legislative body in the resolution providing for the issuance of refunding bonds.

(c) "Federal securities" means those securities described in Sections 1360 and 1360.1 of the Financial Code and includes United States Treasury notes, bonds, bills, or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as the loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

SEC. 31. Section 9605 of the Streets and Highways Code is amended to read:

9605. All of the refunding bonds shall mature on September 2.

SEC. 32. Section 9606 of the Streets and Highways Code is amended to read:

9606. In no event shall the first maturity of any refunding bonds be earlier than the second day of September next succeeding 12 months after the date of the bonds.

SEC. 33. Section 9607 of the Streets and Highways Code is amended to read:

9607. The last maturity of any refunding bonds shall not exceed 24 years from the second day of September next succeeding 12 months after the date of the bonds.

SEC. 34. Section 9609 of the Streets and Highways Code is amended to read:

9609. The interest on refunding bonds shall be payable on March 2, and September 2, respectively, of each year.

SEC. 35. Section 9610 of the Streets and Highways Code is amended to read:

9610. The first interest payment on the bonds shall in every case be March 2 next preceding the second day of September next succeeding 12 months after the date of the bonds.

SEC. 36. Section 10204.2 is added to the Streets and Highways Code, to read:

10204.2. If improvement bonds are to be issued pursuant to the Improvement Bond Act of 1915, and if more than one year's interest on the bonds is expected to be payable before and at the maturity date of the first annual series of bonds, the costs and expenses of the proposed improvement may include an allowance for interest not exceeding one year's estimated interest on the bonds. The amount of the allowance for interest shall be paid into the redemption fund for the bonds upon sale and delivery of the bonds.

SEC. 37. This act shall not apply to any improvement bonds issued prior to the effective date of this act.

This act shall not apply to improvement bonds to be issued in any special assessment proceedings initiated by a resolution of intention adopted prior to the effective date of this act, except that the legislative body of the issuing agency may elect by resolution to make this act applicable to the bond issue.

SEC. 38. 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:

Special assessments to pay interest and principal on bonds issued under the Improvement Bond Act of 1915 are collected with property taxes. There is inadequate time between the tax delinquency dates and the bond and interest payment dates to ensure that cities will receive the funds to make bond payments. The resulting risk of default in bond payments endangers the credit standing of cities and the marketability of their bonds.

CHAPTER 66

An act to add Section 35012.3 to the Government Code, relating to local agencies.

[Approved by Governor June 9, 1985 Filed with Secretary of State June 10, 1985.]

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

SECTION 1. Section 35012.3 is added to the Government Code, to read:

35012.3. (a) Nothwithstanding Section 35011, upon approval of the commission a city may annex noncontiguous territory not exceeding 3,100 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal water purposes at the time preliminary proceedings are initiated pursuant to Chapter 2 (commencing with Section 35100). If, after the completion of the annexation, the city sells that territory or any part thereof, all of that territory which is no longer owned by the city shall cease to be a part of the city.

(b) If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by it and not contiguous to it although that territory is contiguous to the territory annexed pursuant to this section.

(c) When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment of that territory from the city. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing provided for by Chapter 4 (commencing with Section 35350).

(d) If territory annexed to a city pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

(e) If territory is annexed pursuant to this section, it shall be used only for municipal water purposes. The city may, however, enter into agreements to lease the land for timber production or grazing by animals. If the territory is used by the city for any other purpose at any time, it shall cease to be a part of the city.

(f) This section shall apply only to the City of Willits.

SEC. 2. Existing limitations on the amount of noncontiguous municipal property which may be annexed to a city have operated to prevent the City of Willits in the County of Mendocino from annexing to the city property used for municipal purposes and comprising a municipally owned water system and watershed which provides the water for that system. It would be advantageous to the city to annex these properties without affecting other unincorporated territory. Due to the uniqueness of this particular situation, the Legislature finds and declares that it is neither desirable nor appropriate to enact a general statute within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 67

An act to amend Section 65301 of the Government Code, relating to land use planning.

[Approved by Governor June 12, 1985. Filed with Secretary of State June 12, 1985.]

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

SECTION 1. Section 65301 of the Government Code is amended to read:

65301. (a) The general plan shall be so prepared that all or individual elements of it may be adopted by the legislative body, and so that it may be adopted by the legislative body for all or part of the territory of the county or city and such other territory outside its boundaries which in its judgment bears relation to its planning. The general plan may be adopted in any format deemed appropriate or convenient by the legislative body, including the combining of elements. The legislative body may adopt all or part of a plan of another public agency in satisfaction of all or part of the requirements of Section 65302 if the plan of the other public agency is sufficiently detailed and its contents are appropriate, as determined by the legislative body, for the adopting city or county.

(b) The general plan may be adopted as a single document or as a group of documents relating to subjects or geographic segments of the planning area.

(c) The general plan shall address each of the elements specified in Section 65302 to the extent that the subject of the element exists in the planning area. The degree of specificity and level of detail of the discussion of each such element shall reflect local conditions and circumstances. However, this section shall not affect the requirements of subdivision (c) of Section 65302, nor be construed to expand or limit the authority of the Department of Housing and Community Development to review housing elements pursuant to Section 50459 of the Health and Safety Code.

The requirements of this section shall apply to charter cities.

CHAPTER 68

An act to amend Section 10971 of the Insurance Code, relating to insurance.

[Approved by Governor June 12, 1985. Filed with Secretary of State June 12, 1985.]

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

SECTION 1. Section 10971 of the Insurance Code is amended to read:

10971. This chapter shall not, except as provided by Sections 10972 and 10974, affect:

(a) A lodge operating under the lodge system, which provides in its bylaws or rules or regulations for the payment of death benefits not exceeding one thousand dollars ($1,000) on the death of a member or for the payment of disability benefits not exceeding one thousand dollars ($1,000) to a member during any period of 12 consecutive calendar months, or both such types of benefits.

(b) The subordinate branch of a lodge, as a lodge is defined in Section 10972, or any association formed by the members of a lodge, which association confines its membership to the members of such lodge, which subordinate branch or association (1) is organized without capital stock, (2) is organized and operated solely for the benefit of its members or their beneficiaries and not for profit, and (3) provides in its bylaws or rules or regulations for the payment of either or both of the following benefits: (i) a benefit of not exceeding one thousand dollars ($1,000) on the death of a member from any cause; (ii) a benefit of not exceeding one thousand dollars ($1,000) on the accidental death of a member or benefits not exceeding one thousand dollars ($1,000) during any period of 12 consecutive calendar months to a member for his or her disability.

(c) A lodge operating under the lodge system or any subordinate branch thereof or any association formed by the members thereof which association confines its membership to the members of such lodge, which subordinate branch or association (1) is organized without capital stock, (2) is organized and operated solely for the benefit of its members or their beneficiaries and not for profit, and (3) provides in its bylaws or rules or regulations for the payment of death benefits not exceeding one thousand dollars ($1,000) on the death of a member or for the payment of disability benefits not exceeding one thousand dollars ($1,000) to a member during any period of 12 consecutive calendar months, or both such types of benefits.

(d) An organization authorized to operate pursuant to a superior court judgment issued between January and April of 1940 whether or not the amount of benefits offered by that organization conforms to that judgment.

(e) Contracts of reinsurance on a plan under subdivisions (a), (b), (c), or (d).

CHAPTER 69

An act to amend Section 8013 of, and to repeal Section 8014 of, the Welfare and Institutions Code, relating to public guardians.

[Approved by Governor June 12, 1985 Filed with Secretary of State June 12, 1985.]

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

SECTION 1. Section 8013 of the Welfare and Institutions Code is amended to read:

8013. The public guardian shall have a claim against the ward's estate for his or her reasonable expenses incurred in the execution of the guardianship or conservatorship, and such compensation for his or her services, those of his or her attorney, and the filing and processing services of the county clerk, as the court in which his or her accounts are settled deems just and reasonable.

SEC. 2. Section 8014 of the Welfare and Institutions Code is repealed.

CHAPTER 70

An act to amend Section 36521 of the Streets and Highways Code, relating to parking and business improvement areas.

[Approved by Governor June 12, 1985. Filed with Secretary of State June 13, 1985.]

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

SECTION 1. Section 36521 of the Streets and Highways Code is amended to read:

36521. The city council may adopt a resolution of intention to establish an area, either on its own initiative or if it is requested to do so by at least 20 percent of the owners of businesses within the area to be formed. The resolution shall contain all of the following information:

(a) A description of the boundaries of the proposed area.

(b) The time and place of a hearing to be held by the city council to consider establishment of an area.

(c) The proposed uses to which the proposed revenue shall be put.

(d) A description of the system of assessments or charges which will be used and the businesses upon which the levy will be made. If a classification system is used in making assessments or charges there shall be included a description by class or business of the classification system to be used.

CHAPTER 71

An act to amend Section 2 of the Storm Water District Act of 1909 (Chapter 222 of the Statutes of 1909), relating to storm water districts.

[Approved by Governor June 12, 1985. Filed with Secretary of State June 13, 1985.]

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

SECTION 1. Section 2 of the Storm Water District Act of 1909 (Chapter 222 of the Statutes of 1909) is amended to read:

Sec. 2. Thereupon the clerk shall cause to be published in the newspaper or newspapers so designated, for a period of 20 days before the date fixed for the hearing, a notice, which shall be headed "Notice of intention of the board of supervisors to form a storm water district." The notice shall set forth the fact of the passage of the resolution with the date thereof, the boundaries of the proposed district, and the time and place for the hearing, and shall state that it is proposed to assess all property embraced in the proposed storm water district, for the purpose of paying the damages, costs and expenses of constructing and repairing those dikes, levees, ditches, canals, reservoirs, shafts and other improvements as may be necessary to protect the land in the district from damage from storm water and from waters of any innavigable stream, canyon or wash, or to spread, conserve, store, retain or cause to percolate into the soil within the district any or all of those waters, and the necessary expense of maintaining the district, and shall refer to the resolution for further particulars. The assessor shall certify to the clerk the name of each owner of land in the proposed district whose name appears on the last assessment roll of the county or counties in which the proposed district lies, and the clerk shall forthwith send a copy of the notice by certified mail, postage prepaid, to each owner so certified, addressed to the owner at his or her address given on the assessment roll or, if no address is given, then at his or her last known address, or if it be not known, then at the county seat of the county in which his or her land lies. The clerk shall make and file in his or her office an affidavit of the mailing, showing the names and addresses of the persons to whom the notices were sent, which shall be prima facie evidence that the notices were mailed as required in this section.

CHAPTER 72

An act to amend Section 30801 of the Food and Agricultural Code, and to amend Section 38792 of the Government Code, relating to animals.

[Approved by Governor June 12, 1985 Filed with
Secretary of State June 13, 1985.]

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

SECTION 1. Section 30801 of the Food and Agricultural Code is amended to read:

30801. (a) A board of supervisors may provide for the issuance of serially numbered metallic dog licenses pursuant to this section. The dog licenses shall be:

(1) Stamped with the name of the county and the year of issue.

(2) Unless the board of supervisors designates the animal control department to issue the licenses, issued by the county clerk directly or through judges of justice or municipal courts, to owners of dogs, that make application.

(b) The licenses shall be issued for a period of not to exceed two years.

SEC. 2. Section 38792 of the Government Code is amended to read:

38792. The legislative body of a city may impose and collect a license fee for a period not to exceed two years and not exceeding the cost of services relating to dogs, including, but not limited to, animal shelters and control and the programs specified in Section 30652 of the Food and Agricultural Code, provided by the city, on every dog owned or harbored within the city limits. The license fee for spayed bitches and neutered males shall be 50 percent of the license fee otherwise imposed.

CHAPTER 73

An act to add Section 1367.4 to the Health and Safety Code, and to add Sections 10123.7 and 11512.175 to the Insurance Code, relating to insurance.

[Approved by Governor June 13, 1985. Filed with
Secretary of State June 13, 1985.]

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

SECTION 1. Section 1367.4 is added to the Health and Safety Code, to read:

1367.4. On and after January 1, 1986, every health care service plan, except a specialized health care service plan, that covers hospital, medical, or surgical expenses on a group basis shall offer coverage for orthotic and prosthetic devices and services under such terms and conditions as may be agreed upon between the group subscriber and the plan. Every plan shall communicate the availability of that coverage to all group contract holders and to all prospective group contract holders with whom they are negotiating.

SEC. 2. Section 10123.7 is added to the Insurance Code, to read:

10123.7. On or after January 1, 1986, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer coverage for orthotic and prosthetic devices and services under such terms and conditions as may be agreed upon between the group policyholder and the insurer. Every insurer shall communicate the availability of that coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating.

SEC. 3. Section 11512.175 is added to the Insurance Code, to read:

11512.175. On or after January 1, 1986, every nonprofit hospital service plan that covers hospital, medical or surgical expenses on a group basis shall offer coverage for orthotic and prosthetic devices and services under such terms and conditions as may be agreed upon between the group subscriber and the plan. Every plan shall communicate the availability of that coverage to all group contract holders, and to all prospective group contract holders with whom they are negotiating.

CHAPTER 74

An act to amend Section 12246 of the Business and Professions Code, relating to weights and measures.

[Approved by Governor June 18, 1985. Filed with Secretary of State June 18, 1985.]

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

SECTION 1. Section 12246 of the Business and Professions Code is amended to read:

12246. This article shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

CHAPTER 75

An act to amend Section 33760.5 of the Health and Safety Code, relating to redevelopment agencies.

[Approved by Governor June 18, 1985. Filed with Secretary of State June 18, 1985]

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

SECTION 1. Section 33760.5 of the Health and Safety Code is amended to read:

33760.5. (a) Notwithstanding the requirements of Section 33760, agencies which operate within a jurisdiction, the population of which is in excess of 600,000 persons, as determined by the Department of Finance, may additionally provide financing for residential construction of multifamily rental units outside of a redevelopment project area as set forth in and subject to the limitations of this section.

(b) Within its territorial jurisdiction, an agency may determine the location and character of any residential construction to be financed under the provisions of this chapter and may make mortgage or construction loans to participating parties through qualified mortgage lenders, or purchase mortgage or construction loans without premium made by qualified mortgage lenders to participating parties for financing residential construction of multifamily rental units.

(c) Not less than 20 percent (15 percent in target areas) of the units in each project financed pursuant to this section shall be occupied by, or made available to, individuals of low and moderate income, as defined in Section 103(b)(12)(C) of the Internal Revenue Code of 1954 for the period required by Section 103(b)(4)(A) of the Internal Revenue Code of 1954.

(d) Not less than one-half of the low and moderate income units shall be occupied by, or made available to, very low-income households, as defined in Section 50105.

(e) The provisions of subdivision (d) shall apply for the period the provisions of subdivision (c) apply to a project financed pursuant to this section. However, in the event an agency finds and determines that federal rent subsidies are unavailable to a project financed pursuant to this section, as of the date revenue bonds are authorized pursuant to Section 33776, or on any subsequent date, for the project, the requirements of this subdivision and subdivision (d) shall not apply.

(f) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date.

CHAPTER 76

An act to amend Section 798.74 of the Civil Code, relating to mobilehome parks.

[Approved by Governor June 18, 1985. Filed with Secretary of State June 18, 1985.]

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

SECTION 1. Section 798.74 of the Civil Code is amended to read:

798.74. (a) The management may require the right of prior approval of a purchaser of a mobilehome that will remain in the park and that the selling homeowner or his or her agent give notice of the sale to the management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the rent and charges of the park unless the management reasonably determines that, based on the purchaser's prior tenancies, he or she will not comply with the rules and regulations of the park. If the ownership or management rejects a purchaser as a prospective homeowner, the ownership or management shall inform the selling homeowner in writing of its reasons for the rejection.

(b) If the management collects a fee or charge from a prospective purchaser of a mobilehome in order to obtain a financial report or credit rating, the full amount of the fee or charge shall be credited toward payment of the first month's rent for that mobilehome purchaser. If, for whatever reason, the prospective purchaser is rejected by the management, the management shall refund to the prospective purchaser the full amount of that fee or charge within 30 days from the date of rejection. If the prospective purchaser is approved by the management, but, for whatever reason, the prospective purchaser elects not to purchase the mobilehome, the management may retain the fee, or a portion thereof, to defray its administrative costs under this section.

CHAPTER 77

An act to amend Sections 27465, 27466, 27467, and 27468 of the Government Code, relating to coroners.

[Approved by Governor June 18, 1985. Filed with Secretary of State June 18, 1985.]

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

SECTION 1. Section 27465 of the Government Code is amended to read:

27465. Within 90 days after an inquest upon a dead body the coroner shall deliver to the legal representatives of the deceased any money or other property found upon the body.

SEC. 2. Section 27466 of the Government Code is amended to read:

27466. If, within 90 days after the inquest, no legal representative makes a demand upon the coroner for the money or property found upon the body of the decedent, the coroner shall deliver to the treasurer any money, and the proceeds of the sale of any property

found upon the body. At the same time, the coroner shall deliver an affidavit to the treasurer showing:

(a) The amount of money belonging to the estate of the deceased person which has come into his possession since the coroner's last statement.

(b) The disposition made of any property.

SEC. 3. Section 27467 of the Government Code is amended to read:

27467. If the coroner fails to deliver to the treasurer within 120 days after any inquest upon a dead body all money and proceeds from the sale of property found upon the body, unless claimed in the meantime by the public administrator or other legal representative of the decedent, the district attorney shall proceed against the coroner to recover the money or proceeds by civil action in the name of the county.

SEC. 4. Section 27468 of the Government Code is amended to read:

27468. If within 90 days after an inquest upon a dead body no legal representative of the decedent demands from the coroner the property found upon the person of the decedent, the coroner shall sell the property at public auction upon reasonable public notice, and immediately thereafter deliver the proceeds of the sale to the treasurer, who shall place them to the credit of the county.

CHAPTER 78

An act to add Section 22557.5 to the Public Utilities Code, relating to aviation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 18, 1985 Filed with Secretary of State June 18, 1985]

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

SECTION 1. Section 22557.5 is added to the Public Utilities Code, to read:

22557.5. (a) Notwithstanding Section 22557, the Big Bear Airport District may issue temporary negotiable notes bearing interest at a rate not exceeding the maximum rate permitted pursuant to Section 53531 of the Government Code. These notes shall be general obligations of the district payable from revenues and taxes, unless paid from other available funds of the district, in the same manner as bonds of the district. The notes shall mature not later than 20 years from the date thereof, and the total aggregate amount of notes outstanding at any one time shall not exceed 2 percent of the assessed valuation of the taxable property in the district, or if the assessed valuation is not obtained, 2 percent of the county auditor's estimate

of the assessed valuation of the taxable property of the district evidenced by the auditor's certificate. The total aggregate amount of notes outstanding at any one time shall further not exceed one million five hundred thousand dollars ($1,500,000).

(b) Any note proposed to be issued pursuant to subdivision (a) with a term longer than five years shall not be issued until after a public hearing is conducted with respect to the issuance and a resolution is adopted approving the issuance. At least 15 days prior to the public hearing, the board shall cause notice of the hearing to be published pursuant to Section 6061 of the Government Code in a newspaper published in the principal county. The resolution is subject to referendum pursuant to Section 5200 of the Elections Code and shall so provide. Within 15 days after adoption of the resolution of issuance, the board shall cause the resolution to be published at least once in a newspaper of general circulation published in the principal county, or if there is none, posted in at least three public places in the district.

SEC. 2. The Legislature finds and declares that Section 22557.5 of the Public Utilities Code, as added by Section 1 of this act, is necessary since special facts and circumstances applicable to the Big Bear Airport District and not generally applicable make the accomplishment of this purpose impossible by any general law. The district has certain outstanding obligations at burdensome rates of interest which it could refinance at more favorable rates pursuant to the authorization contained in this act. The Legislature further finds and declares that this is the only such situation involved, that the purpose of this act is impossible to accomplish by any general law, and that special legislation applicable to the Big Bear Airport District is therefore necessary.

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

In order for the Big Bear Airport District to increase its borrowing capacity and take advantage of currently favorable financing so as to be able to commence urgently needed projects and improvements as soon as possible, it is necessary that this act become effective immediately.

CHAPTER 79

An act to amend Section 202.5 of the Code of Civil Procedure, relating to juries.

[Approved by Governor June 18, 1985. Filed with Secretary of State June 18, 1985]

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

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

202.5. A peace officer, as defined in Section 830.1 and subdivision (a) of Section 830.2 of the Penal Code, and a judge shall be exempt from jury service. As used in this section, "judge" means only an active judge of a court of record or a full-time justice court judge and does not include a temporary judge, as specified in Section 21 of Article VI of the California Constitution.

CHAPTER 80

An act to amend Section 1584.5 of the Civil Code, relating to unsolicited services.

[Approved by Governor June 18, 1985. Filed with Secretary of State June 18, 1985.]

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

SECTION 1. Section 1584.5 of the Civil Code is amended to read:

1584.5. No person, firm, partnership, association, or corporation, or agent or employee thereof, shall, in any manner, or by any means, offer for sale goods, wares, merchandise, or services, where the offer includes the voluntary and unsolicited sending or providing of goods, wares, merchandise, or services not actually ordered or requested by the recipient, either orally or in writing. The receipt of any goods, wares, merchandise, or services shall for all purposes be deemed an unconditional gift to the recipient who may use or dispose of the goods, wares, merchandise, or services in any manner he or she sees fit without any obligation on his or her part to the sender or provider.

If, after any receipt deemed to be an unconditional gift under this section, the sender or provider continues to send bill statements or requests for payment with respect to the gift, an action may be brought by the recipient to enjoin the conduct, in which action there may also be awarded reasonable attorney's fees and costs to the prevailing party.

For the purposes of this section and limited to merchandise or services offered for sale through the mails, the "voluntary and unsolicited sending or providing of goods, wares, merchandise, or services not actually ordered or requested by the recipient, either orally or in writing," includes any merchandise or services selected by the company and offered to the consumer which will be mailed to him or her for sale or on approval or provided to him or her unless he or she exercises an option to reject the offer of sale or receipt on approval. Merchandise or services selected by the seller and offered for sale on a periodic basis must be affirmatively ordered by a

statement or card signed by the consumer as to each periodic offer of merchandise or services. This paragraph shall not apply to any of the following:

(a) Contractual plans or arrangements complying with this subdivision under which the seller periodically provides the consumer with a form or announcement card which the consumer may use to instruct the seller not to ship the offered merchandise. Any instructions not to ship merchandise included on the form or card shall be printed in type as large as all other instructions and terms stated on the form or card. The form or card shall specify a date by which it shall be mailed by the consumer (the "mailing date") or received by the seller (the "return date") to prevent shipment of the offered merchandise. The seller shall mail the form or card either at least 25 days prior to the return date or at least 20 days prior to the mailing date, or provide a mailing date of at least 10 days after receipt by the consumer, except that whichever system the seller chooses for mailing the form or card, the system must be calculated to afford the consumer at least 10 days in which to mail his or her form or card. The form or card shall be preaddressed to the seller so that it may serve as a postal reply card or, alternatively, the form or card shall be accompanied by a return envelope addressed to seller. Upon the membership contract or application form or on the same page and immediately adjacent to the contract or form, and in clear and conspicuous language, there shall be disclosed the material terms of the plan or arrangement including all of the following:

(1) That aspect of the plan under which the subscriber must notify the seller, in the manner provided for by the seller, if he or she does not wish to purchase or receive the selection.

(2) Any obligation assumed by the subscriber to purchase a minimum quantity of merchandise.

(3) The right of a contract-complete subscriber to cancel his or her membership at any time.

(4) Whether billing charges will include an amount for postage and handling.

(b) Other contractual plans or arrangements not covered under subdivision (a), such as continuity plans, subscription arrangements, standing order arrangements, supplements and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis.

CHAPTER 81

An act to amend Sections 24353 and 29802 of the Government Code, relating to public funds.

[Approved by Governor June 18, 1985. Filed with Secretary of State June 18, 1985.]

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

SECTION 1. Section 24353 of the Government Code is amended to read:

24353. Each officer of a county or judicial district authorized to collect money shall pay into the county treasury all money collected by him or her or under his or her control that is payable into the treasury in the form and at the time the auditor requires.

SEC. 2. Section 29802 of the Government Code is amended to read:

29802. (a) Unless otherwise provided by ordinance, any warrant issued is void if not presented to the county treasurer for payment within six months after its date.

Whenever, under the provisions of this section, warrants drawn on trust funds became void, the moneys in the county treasury represented by the warrants may be transferred to the general fund of the county by the county auditor unless disposition is otherwise provided by law.

(b) Any time within two years from the date on which the original warrant became void, the payee or assignee of any warrant which is void as provided in this section may present the warrant to the governing body of the agency on which the warrant was drawn, or declare by affidavit that the warrant has been lost or destroyed, and the governing body may by resolution authorize the auditor to draw new warrants within the limitations prescribed by the resolution without prior individual order of the governing body, provided the limitations prescribed by this section have been complied with. The new warrant shall be subject to the same limitations as the original warrant which it replaces.

(c) If, at any time after a period of two years from the date on which the original warrant became void, or during such other period of time as specified by ordinance, the payee or assignee presents such warrant to the governing body of the agency on which the warrant was drawn, the governing body may adopt an order instructing the county auditor to draw a new warrant in favor of the payee or assignee in the same amount as the original warrant, or the governing body, by resolution, may authorize the auditor, without prior individual order of the governing body, to draw warrants within the limitations prescribed by the resolution in any case in which the auditor determines that it would be inequitable or unreasonable not to draw the warrant, and money is available in the county treasury to make payment on the indebtedness. If the auditor deems it necessary, he or she may present a voided warrant to the governing body for its review, approval, and appropriation of funds. Any such new warrant shall be subject to the same limitations as the original warrant which it replaces.

CHAPTER 82

An act to add Chapter 2.67 (commencing with Section 1000.30) to Title 6 of Part 2 of the Penal Code, and to repeal Chapter 13 (commencing with Section 18985) of Part 6 of Division 9 of the Welfare and Institutions Code, relating to child abuse, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 19, 1985. Filed with Secretary of State June 19, 1985.]

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

SECTION 1. Chapter 2.67 (commencing with Section 1000.30) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 2.67. COUNSELING FOR CHILD ABUSE OR SEXUAL MOLESTATION

1000.30. The Office of Criminal Justice Planning shall, pursuant to Chapter 1660 of the Statutes of 1984, establish a pilot project for a period of two years in not more than three counties. The pilot projects shall test a program to provide treatment to child sexual abuse perpetrators, including intrafamilial and pedophiliac abusers, and including abusers who are incarcerated, as well as those who are not. The office shall designate the pilot project counties from among those counties that wish to participate. The office shall give priority to selection of at least two of the three pilot projects in counties where an existing project provides services to child sexual abuse perpetrators and where the proposed pilot project is an expansion of, and integrated with, existing services.

These counties shall provide all of the following information to the Office of Criminal Justice Planning:

(a) Identification of sexual abuse perpetrator treatment and victim services as a need in the county's child abuse services plan developed pursuant to Section 18962 of the Welfare and Institutions Code.

(b) Evidence in the application to provide service under this chapter that county mental health, welfare department, district attorney, juvenile court, superior court, municipal court, probation department, and private child welfare service agencies are participating in and coordinating case referral, case management, and service delivery to the target population.

(c) Evidence as to how incest offender treatment will be integrated with victim treatment.

Nothing in this section prohibits the use by district attorneys of counseling and other treatment programs as a diversion from prosecution. In pilot counties, diversion services shall be integrated with the services provided under this chapter.

1000.31. The provisions of this chapter shall be applicable in the designated counties for the duration of the pilot project.

1000.32. (a) Except as provided in subdivision (b), in any case in which the defendant has been convicted in a pilot project county of violating Section 261, 264.1, 285, 286, 288, 288a, or 289, and the victim is a person who was under 18 years of age at the time the offense was committed, the court shall, in addition to any other punishment or confinement that may be imposed, require counseling of the convicted person pursuant to Section 1000.33, when the person is confined or placed on probation within the county.

(b) Notwithstanding subdivision (a), a court may exclude from counseling and other treatment programs any convicted person described in subdivision (a) who is confined within the county, if the person is found by the court not to be amenable to counseling or other treatment services on either of the following bases:

(1) The person is a repeat offender who has previously been ordered by a court to receive counseling and who has been found by either the court or a counselor to be nonresponsive or not amenable to counseling services.

(2) The person has professed to the court that he or she continues to sexually abuse children and has refused counseling services.

1000.33. In a pilot project county, the county mental health department shall do both of the following:

(a) Assign a counselor to the convicted person described in Section 1000.32. The counselor shall be qualified, as determined by the county mental health department, in carnal abuse or sexual molestation counseling, as appropriate.

(b) Determine and collect from the convicted person a fee for the counseling, according to ability to pay, but not exceeding actual cost.

1000.34. The state shall reimburse each pilot project county less any fees received pursuant to subdivision (b) of Section 1000.33 for any costs it incurs in conducting the pilot project under this chapter.

1000.35. In order that the Legislature may determine the cost and potential benefits of the counseling programs authorized by this chapter, the Office of Criminal Justice Planning shall submit a written report to the Legislature within six months of completion of all of the pilot projects authorized by this chapter. The reports shall detail all of the following information:

(a) The number of defendants who participated in the counseling programs during the pilot project.

(b) The cost of the pilot project, including data concerning the amount of the cost recovered from participants in the counseling programs.

(c) The nature of the treatment provided to participants in the counseling programs.

(d) The results of the treatment provided to participants in the counseling programs, including data concerning recidivism by participants, other criminal offenses committed by participants, and failures to participate in the counseling programs.

(e) The results of combining counseling services to intrafamilial and pedophiliac child sexual abusers.

1000.36. To the extent funds are appropriated in the 1985–86 Budget Act, the Office of Criminal Justice Planning shall award project funds to three counties who meet the criteria set forth in Section 1000.30. The Office of Criminal Planning shall not utilize for administrative expenses more than 5 percent of the funds which are appropriated. Pilot counties shall utilize each of the following:

(a) Third-party payments, where appropriate.

(b) Defendant fees, where ordered by the court.

(c) Existing counseling treatment and education services, where appropriate.

(d) Project funds to provide case management for each defendant and to purchase appropriate services where subdivisions (a), (b) and (c) are not applicable.

SEC. 2. Chapter 13 (commencing with Section 18985) of Part 6 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 3. It is the intent of the Legislature in enacting this bill to continue in existence, without interruption, the pilot projects established under Chapter 1660 of the Statutes of 1984. It is not the intent of the Legislature to extend the life of those pilot projects beyond the time period specified in Chapter 1660 of the Statutes of 1984.

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 effectively implement Chapter 1660 of the Statutes of 1984 which established a pilot project for the counseling of perpetrators of sexual abuse of children, it is necessary that this act go into immediate effect.

CHAPTER 83

An act to amend Section 14024 of the Corporations Code, to amend Sections 7072, 7073, 7074, 7075, 7076, 7082, 7083, 7085, 7086, 7087, 7087.5, 7088, 7089, 7091, 7092, 7093, and 54222 of, and to add Sections 7073.5 and 7078 to, the Government Code, and to repeal Section 18 of Chapter 45 of the Statutes of 1984, relating to economic development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 19, 1985. Filed with Secretary of State June 19, 1985.]

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

SECTION 1. Section 14024 of the Corporations Code is amended to read:

14024. The board shall not allocate any funds to a small business development corporation unless the board determines to its satisfaction:

(a) That there is sufficient interest in the region, including commitments to provide financial support, business consultation and education, and other assistance.

(b) That the plan of operation submitted by the corporation includes all of the following:

(1) Substantiation of the ability of the corporation to maintain and increase its loan guarantee fund.

(2) A reasonably complete description of the disadvantaged area or areas to be served.

(3) A description of methods to be used to mobilize community resources within the region to carry out the purposes of this chapter.

(4) An agreement that at least one-half of the corporation's lendable funds and guarantee capacity will be utilized to make or guarantee small business loans. There shall be no discrimination on the basis of race, creed, national origin, sex, age, or physical handicap in considering individual applications for loans. To prevent discrimination, small business loans shall be made to persons whose characteristics coincide, to the fullest extent possible consistent with provisions of law, with the characteristics of the economically disadvantaged area or economically disadvantaged areas to be served.

(5) An agreement to require, as a condition to the granting of any loan or guarantee, that the borrower in an employment incentive loan will accept for permanent employment a significant number of disadvantaged persons referred for placement by the Employment Development Department. There shall be no discrimination on the basis of race, creed, national origin, sex, age, or physical handicap by an employment incentive borrower in hiring employees from disadvantaged areas. To prevent discrimination, the characteristics of these employees shall, to the fullest extent possible consistent with provisions of law, coincide with the characteristics of the unemployed in the economically disadvantaged area or economically disadvantaged areas served by the corporation.

(6) An agreement to require, as a condition to the granting of any loan or guarantee, that the borrower in a small business loan will agree to a continuing consulting relationship with the corporation during the existence of the loan or guarantee.

(7) An agreement to coordinate to the maximum extent feasible with existing job development and placement programs.

(8) An agreement that the corporation's lendable funds and guarantee capacity will be utilized in accordance with the priority established by regulations of the Office of Small Business pursuant to

Section 7089 of the Government Code.

(c) That upon a subsequent request for additional allocations, the corporation will certify that the information provided pursuant to subdivision (b) is still current or will supply revised information and provide information describing the current status of its fund and anticipated financial assistance transactions.

SEC. 1.5. Section 7072 of the Government Code is amended to read:

7072. For purposes of this chapter:

(a) "Department" means the Department of Commerce.

(b) "Enterprise zone" means any area within a city, county, or city and county which is designated as such by the department in accordance with the provisions of Section 7073.

(c) "Governing body" means a county board of supervisors or a city council, as appropriate.

(d) "High technology industries" include, but are not limited to, the computer, biological engineering, electronics, and telecommunications industries.

(e) "Eligible area" means a geographic area meeting the criteria described in Section 7073.5.

SEC. 2. Section 7073 of the Government Code is amended to read:

7073. (a) The governing body of a city or county may, either by ordinance or resolution, propose an eligible area plus one commercial or industrial area or both within its respective jurisdiction as the geographic area for an enterprise zone. A county may propose an area within the unincorporated area as the geographic area for an enterprise zone, but shall not propose an area within an incorporated area. This proposed geographic area shall be based upon findings by the governing body that the area is a depressed area and that the designation as an enterprise zone is necessary in order to assist in attracting private sector investment in the area. The city or county shall establish definitive boundaries for the area to be included in the application for designation and, if designated by the department, the designation shall be binding for a period of 15 years.

(b) Following the application for designation of an enterprise zone by a city or county, the governing body shall apply to the department for designation. The department shall adopt regulations and guidelines concerning the necessary contents of each application for designation.

(c) Any city, county, or city and county with an eligible area within its jurisdiction may complete a preliminary application. A maximum of 20 applications may be chosen each year to complete a final application.

(d) From the applications received, the department may designate not more than 10 enterprise zones within the state, not more than two of which may be designated high technology enterprise zones.

(e) In designating enterprise zones, the department shall select from the applications submitted those proposed enterprise zones which, based on those applications, meet, to the extent possible, the following criterion:

Those proposed enterprise zones which, upon a comparison of all of the applications submitted, indicate that they propose the most effective, innovative, and comprehensive regulatory, tax, program, and other incentives in attracting private sector investment in the zone proposed.

For purposes of this paragraph, regulatory incentives include, but are not limited to, all of the following: the suspension or relaxation of locally originated or modified building codes, zoning laws, general development plans, or rent controls; the elimination or reduction of fees for applications, permits, and local government services; and the establishment of a streamlined permit process.

Tax incentives include, but are not limited to, the elimination or reduction of construction taxes or business license taxes.

Program and other incentives may include, but are not limited to, all of the following: the provision or expansion of infrastructure; the targeting of federal block grant moneys, including small cities, education, and health and welfare block grants; the targeting of economic development grants and loan moneys, including grant and loan moneys provided by the federal Urban Development Action Grant program and the federal Economic Development Administration; the privatization of local government services; the targeting of state and federal job disadvantaged and vocational education grant moneys, including moneys provided by the federal Job Partnership Training Act of 1982; the targeting of federal or state transportation grant moneys; and the targeting of federal or state low-income housing and rental assistance moneys.

(f) In evaluating applications for designation, the department shall ensure that applications are not disqualified solely because of technical deficiencies and shall provide applicants with an opportunity to correct the deficiencies. Applications shall be disqualified if the deficiencies are not corrected within two weeks.

(g) For purposes of this section, "high technology enterprise zone" means an enterprise zone which is intended to attract private sector investment in high technology industries and is proposed to be located in an area which would permit the association of those industries with an urban university or college.

SEC. 3. Section 7073.5 is added to the Government Code, to read:

7073.5. (a) An enterprise zone shall consist of both one eligible area plus one commercial or industrial area or both..

(b) An eligible area is a geographic area which, based upon the determination of the department, fulfills at least one of the following:

(1) The proposed geographic area meets the Urban Development Action Grant criteria of the United States Department of Housing and Urban Development.

(2) The area within the proposed zone has experienced plant

closures within the past two years affecting more than 100 workers.

(3) The city or county has submitted material to the department for a finding that the proposed geographic area meets criteria of economic distress related to those used in determining eligibility under the Urban Development Action Grant Program and is therefore an eligible area.

SEC. 4. Section 7074 of the Government Code is amended to read:

7074. (a) Individuals residing within an enterprise zone may establish, under the provisions of this chapter, a nonprofit neighborhood enterprise association corporation (NEAC) as follows:

(1) There shall be only one nonprofit neighborhood enterprise association corporation chartered for each, or any portion of, a geographic neighborhood area.

(2) The geographic neighborhood area to which each corporation applies shall be defined by the incorporating residents.

(3) An association shall become a chartered, nonprofit NEAC by a resolution of each governing body that has any of its area within the proposed NEAC area.

(b) The incorporating residents shall draft articles of incorporation and bylaws for a nonprofit mutual benefit corporation pursuant to the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code). The articles and bylaws of each corporation shall provide for each of the following:

(1) Describe the geographic neighborhood area to which the incorporating association applies.

(2) Describe the manner in which a membership interest in that corporation shall be offered to each resident and business owner of the neighborhood.

(3) Contain provisions for the amendment of the articles and bylaws by a majority of the members.

(4) Authorize the corporation to engage in business only within the particular zone in which the neighborhood area of the corporation is located.

(5) Establish only one class of membership, which shall have voting rights.

(6) Provide technical and financial assistance to private sector investors within an enterprise zone.

(c) The incorporating residents shall send to all residents and business owners of the corporation's neighborhood area each of the following:

(1) An explanation of the proposed new corporation and their rights in it.

(2) A copy of the corporate articles and bylaws.

(3) An offer of a membership interest to which each particular resident and business owner is entitled without any charge for that membership.

(d) The board of directors of the corporation shall apply to the

Secretary of State for certification of its articles of incorporation establishing the corporation as a nonprofit corporation. The Secretary of State shall provide technical assistance to zone residents attempting to incorporate under this section.

(e) Upon certification of its articles of incorporation and compliance with paragraph (3) of subdivision (a), the NEAC shall send the department a copy of its articles of incorporations and bylaws, the names of its officers, and an official copy of each resolution required in paragraph (3) of subdivision (a). The NEAC shall send the department a copy of any and all changes in the above items or in the geographic neighborhood area to which the incorporating association applies.

(f) All property which is owned by the state or local government within the neighborhood area of a certified corporation and is not in current use by that government and which is not necessary for a public purpose of the state or local agency owning the property may be leased to the corporation at terms to be specified. Any lease agreement so executed shall permit the corporation to sublease or assign its leasehold interest to private entities conducting or intending to conduct business operations within the zone. The lease may be renewed upon expiration if the corporation has continuously complied with the requirements of this chapter.

SEC. 5. Section 7075 of the Government Code is amended to read:

7075. Upon filing a preliminary application, the applicant, as lead agency, shall submit an initial study and a notice of preparation to the department, the state clearinghouse, and all responsible agencies. Only a city, county, or city and county chosen by the department as a final applicant shall prepare, or cause to be prepared, a draft environmental impact report, which shall set forth the potential environmental impacts of any and all development planned within the enterprise zone. The draft environmental impact report shall be submitted to the department with the final application. Prior to final designation by the department, the applicant shall complete and certify the final environmental impact report. The environmental impact report shall comply with the information disclosure provisions and the substantive requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. No further environmental impact report shall be required if the effects of the project were either (1) mitigated or avoided as a result of the environmental impact report prepared for the area, or (2) examined at a sufficient level of detail in the environmental impact report for the area to enable those effects to be mitigated or avoided by specific site revisions, the imposition of conditions, or other means in connection with the designation of the area, or (3) identified in the final environmental impact report and the lead agency made written findings that specific economic, social, or other considerations made infeasible the mitigation measures or project alternatives identified in the final environmental impact report.

SEC. 6. Section 7076 of the Government Code is amended to read:

7076. (a) The department shall design, develop, and make available the applications and the criteria for selection of enterprise zones, and shall adopt all regulations necessary to carry out this chapter.

(b) The applications, selection criteria, and all necessary regulations for designation shall be adopted and made available not later than 250 days following the effective date of this chapter.

(c) The department may commence the designation of areas for the program on the effective date of the regulations described in subdivision (a) and shall complete those designations as expeditiously as practicable, but in no event later than four years from the effective date of this chapter.

(d) The department shall adopt regulations concerning the designation procedures and application process as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. For the purpose 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 subdivision (e) of Section 11346.1. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall not remain in effect more than 180 days unless the agency complies with all provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1.

SEC. 6.5. Section 7078 is added to the Government Code, to read:

7078. The department shall submit a report to the Legislature no later than March 20, 1987, and every five years thereafter, which evaluates the effect of the program on employment, investment, and incomes, and on state and local tax revenues in designated enterprise zones.

SEC. 7. Section 7082 of the Government Code is amended to read:

7082. For purposes of this chapter:

(a) "Block group" means the smallest area for which the United States Department of Commerce, Bureau of the Census, provides data on personal income.

(b) "Cluster of block groups" means one or more contiguous block groups.

(c) "Poverty level" means the poverty level, as defined by the United States Department of Commerce, Bureau of the Census, as periodically updated.

(d) "High density unemployment area" means any of the following:

(1) A metropolitan statistical area or nonmetropolitan statistical area within this state, as identified by the Department of Commerce, which contains at least 4,000 people (in the case of a metropolitan statistical area) or at least 2,500 people (in the case of a

nonmetropolitan statistical area) in a cluster of block groups, each of which meets the following criteria according to the most recent available decennial census information:

(A) The average unemployment rate for the block group for the most recent 12-month period for which data are available was at least one and one-half times the average national rate of unemployment for that 12-month period.

(B) The average poverty rate for the block group for the most recent 12-month period was at least one and one-half times the average national poverty rate for that 12-month period.

(C) At least 70 percent of the household earnings for the block group for the most recent 12-month period was a maximum of 80 percent of the average state household earnings for that 12-month period.

(D) Excludes nondistressed areas.

(2) If an area does not meet the criteria of a high density unemployment area specified above, an applicant may petition to the department for the designation based upon compliance with one or more of the following:

(A) A special census is conducted and approved by the population research unit of the Department of Finance which demonstrates compliance with paragraph (1).

(B) The applicant's jurisdiction has experienced a major economic dislocation resulting from plant closure or closure of a federal installation within the last 12 months prior to the application.

(C) The applicant's jurisdiction contains a specifically defined geographic area that meets the eligibility criteria for pockets of poverty under the United States Department of Housing and Urban Development's Urban Development Action Grant (UDAG) program as described in 24 CFR Part 570, Sections 570.466(a) (2) and (a) (3), and as periodically updated.

(D) A block group meets substantially similar criteria measuring economic distress as that measured in paragraph (1). Each census block shall meet the "substantially similar" criteria.

(E) The area consists of the entire geographic area of a community. Area boundaries shall be synonymous with the boundaries of the community. As used in this subparagraph, "community" means a subdivision of a city or county (not including a city), including a neighborhood or suburb which has distinct boundaries, is recognized as a community by the individuals residing and working within the community, and has existed prior to the program planning process. Documentation demonstrating that the area meets the definition of "community" may include a map prepared for purposes other than the program, which lists both the name and boundaries of the community. The area shall meet the following criteria:

(i) Complies with the above definition of "community."

(ii) A minimum of 51 percent of the geographic area or population of the area meets the criteria of subparagraphs (A), (B),

and (C) of paragraph (1), and the remainder of the area has substantially similar economic distress.

(3) A petition for designation of a high density unemployment area received by the department after April 1, 1985, shall be reviewed by the department pursuant to the criteria specified in paragraph (2).

(e) "Nondistressed area" means any block group which does not meet the definition of a high density unemployment area.

(f) "One-stop service" means an efficient and expeditious method for providing services to qualified businesses.

(g) "Department" means the Department of Commerce.

(h) "Qualified business" means any person, corporation, or other entity which is certified by the department as meeting paragraphs (1) and (2).

(1) During the period of designation, the entity is engaged in the active conduct of a trade or business within the program area.

(2) Meets any of the following requirements:

(A) Has an average of at least 50 percent of its employees who are residents of a high density unemployment area.

(B) Has an average of at least 30 percent of its employees who are residents of a high density unemployment area, and has set up a community service program or programs approved by the local government entity and the community advisory council in which the program area is located.

(C) Is a business at least 30 percent owned and operated by a resident or residents of a high density unemployment area. For purposes of this subparagraph, "owned and operated" means that the resident or residents of a high density unemployment area who are owners of the business are responsible for at least 30 percent of the work performed by the business and share in at least 30 percent of the ownership, control, management responsibility, risks, and profits of the business.

For purposes of this subdivision, "a high density unemployment area" means the high density unemployment area contained in the applicant's final application to the department if the population of that high density unemployment area is in excess of 150,000.

A business entity shall be certified prior to obtaining any benefits of a qualified business, and shall be recertified no less than every three years, as determined by the department. The department shall periodically audit qualified businesses for compliance with this section, and decertify any business found not in compliance. Priority shall be given to auditing qualified businesses within 18 months of the original certification of a business. A business may appeal to the director of the department a decision to deny certification or recertification or a decision to decertify, within 30 days of the decision.

Financial institutions shall not be qualified businesses. A business shall not be a qualified business if it abandons operations elsewhere in the state or relocates existing operations within the state, unless

the business obtains written approval of its relocation from the appropriate office of the city or county it is moving from.

(3) A person, corporation, or other entity shall not be a qualified business if the business uses a residential structure in a high density unemployment area for a nonresidential use, unless the structure has been unoccupied for at least one year prior to designation of the program area.

(i) "Program area" means one targeted economic development area and, where applicable, one neighborhood economic development area in the Employment and Economic Incentive Program. The term applies both to areas contained in an application for designation, and an area awarded designation. In an application containing a high density unemployment area with a population in excess of 75,000, "program area" means the targeted economic development area, the high density unemployment area, and, where applicable, the neighborhood economic development area. The benefits of the employment and economic incentive program shall only accrue to program areas after designation.

(j) "Agent" means the person or entity designated by an applicant to facilitate the operations of the Employment and Economic Incentive Program as described in subdivisions (a) and (b) of Section 7087.

(k) "Applicant" means a city, county, or city and county applying for designation under the Employment and Economic Incentive Act.

(*l*) "Resident" means, unless otherwise defined, a person whose principal place of residence is within a high density unemployment area and who has lived in that area for six months prior to employment by the qualified business.

(m) "Infrastructure" means the physical systems and services which support development and people, including, but not limited to, streets and highways, transit services, airports, and water and sewer systems.

(n) "Community services" means any type of emergency assistance, counseling and advice, medical care, instructional or social services, or recreational programs and facilities furnished to individuals or groups in high density unemployment areas or program areas.

(o) "Neighborhood economic development area" means an area which meets all of the following criteria:

(1) It shall be located entirely within or contiguous to the high density unemployment area contained in the application for designation.

(2) It shall be zoned primarily commercial.

(3) Its boundary shall be continuous.

(4) It shall be of sufficient size to sustain a diverse mix of commercial businesses and its size and location shall be appropriate to reducing the economic distress within the high density unemployment area.

(5) At least a part of its area shall be within the territorial

jurisdiction of the applicant. If an area for which designation is sought encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the application for designation, except that any one or more of those entities by resolution or ordinance may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application which apply to its jurisdiction, if the area is designated.

No residential structure may be used for nonresidential use unless the structure has been unoccupied for at least one year prior to designation as a program area, or unless comparable replacement housing is provided for all persons displaced in accordance with Section 33413 of the Health and Safety Code. No person shall be displaced under this section unless relocation assistance is provided pursuant to Section 33415 of the Health and Safety Code.

An agricultural area shall not be designated as a neighborhood economic development area.

(p) "Targeted economic development area" means an area which meets all of the following criteria:

(1) Its boundary shall be continuous.

(2) It shall be zoned primarily industrial or other mixed business uses.

(3) It shall be of sufficient size to sustain a diverse mix of businesses and its size and location shall be appropriate to reducing the economic distress within the high density unemployment area.

(4) At least a part of its area shall be within the territorial jurisdiction of the applicant. If an area for which designation is sought encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the application for designation, except that any one or more of those entities by resolution or ordinance may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application which apply to its jurisdiction, if the area is designated.

The area may be, but is not required to be, within a high density unemployment area. However, if the area is outside a high density unemployment area, it shall be within reasonable commuting distance of the high density unemployment area which is contained in the application for designation. If the area is outside a high density unemployment area, the applicant jurisdiction in which the area is located, in making its application, shall secure the endorsement of its application from at least one city or county which has jurisdiction within the high density unemployment area and is in close geographic proximity to the high density unemployment area.

The area may include vacant or sparsely developed parcels of land or abandoned facilities.

No residential structure may be used for nonresidential use unless the structure has been unoccupied for at least one year prior to designation as a program area, or unless comparable replacement

housing is provided for all persons displaced in accordance with Section 33413 of the Health and Safety Code. No person shall be displaced under this section unless relocation assistance is provided pursuant to Section 33415 of the Health and Safety Code.

An agricultural area shall not be designated as a targeted economic development area.

(q) "Application area" means the program area and high density unemployment area contained in an application for designation.

SEC. 7.5. The provisions of this act which add paragraph (3) to subdivision (d) of Section 7082 of the Government Code and amend subdivision (i) of Section 7082 of that code shall be applied retroactively to the Employment and Economic Incentive Act petitions for designation of a high density unemployment area and program area preliminary applications received by the department after April 1, 1985.

SEC. 8. Section 7083 of the Government Code is amended to read:

7083. There shall be in the state an Employment and Economic Incentive Program, a demonstration program for economic development. Targeted economic development and neighborhood economic development areas shall be designated. These areas shall receive tax incentives, special assistance, startup capital, and other incentives for private investment and employment.

The department shall use the most recent decennial census data to identify all high density unemployment areas in a statewide map according to county. The department shall distribute the county maps to the respective counties and provide for statewide public notification of the availability of the maps. Cities, counties, and the department are authorized to charge a reasonable fee to members of the public requesting copies of the maps.

SEC. 9. Section 7085 of the Government Code is amended to read:

7085. (a) An applicant may apply to the department to have an area designated as a targeted economic development area, and if applicable, a neighborhood economic development area for a 15-year period.

(b) The applicant shall first file with the department a preliminary application which shall include, but not be limited to, all of the following:

(1) One program area and one high density unemployment area, including the eligibility and geographic location and proximity of each.

(2) An economic development plan for the program area.

(c) The department shall select no more than 20 final applicants annually to complete a final application. The final application shall include, but not be limited to, all of the following:

(1) A comprehensive economic development strategy for the program area which provides for meaningful involvement of community residents, community businesses, and other community

entities in the planning and preparation of that strategy. The strategy shall only be approved by local ordinance or resolution following a public hearing. The applicant shall provide for public notice of the hearing on the strategy.

(2) A community impact statement which analyzes the impact of designation on the community and includes both of the following:

(A) An evaluation of the effect of the new development on the area's infrastructure.

(B) The effect of the new development on the provision of community services.

(3) A plan which specifies economic development objectives and assigns a priority to each objective.

(4) The manner and level in which community services and infrastructure, particularly through experimentation with community and private sector involvement, will be improved to accommodate new development.

(5) A description of current economic development projects in the application area and an analysis of how participation in the application area will supplement existing economic development activities.

(6) An identification of funds for economic development activities from federal, state, local, and private sources which are planned for use in the application area.

(7) An evaluation of the employment, job skills, and management training needs of businesses and residents in the application area.

(8) An estimate of the number of new jobs that will result from the program based on the employment needs evaluation made pursuant to paragraph (7).

(9) A description of specific actions and timetables to reduce, remove, simplify, or streamline local requirements and the local permit process within the application area without endangering the public health, safety, and welfare in the community.

(10) Proposed involvement in the program by private entities, organizations, neighborhood organizations, and neighborhood groups.

(d) The department shall design, develop, and make available the applications, the criteria for selection, and all regulations regarding this chapter.

(e) In competitively evaluating the applications for the program designation, the department shall give special preference to those areas with respect to which the strongest and highest quality contributions described in subdivision (b) are indicated. The form and manner in which applications are required to be submitted shall minimize the paperwork of the applicant.

(f) The department shall also give preference to those applications that provide a plan for local efforts to reduce impediments to economic development and maintain the quality of life of the community, which include, but are not limited to, the following:

(1) A proposal for program areas close enough for easy access to the high density unemployment areas or which route transit service to serve employees.

(2) A plan to encourage the retention and expansion of existing businesses.

(3) A strategy for the recruitment of new businesses into the program area.

(4) A realistic projection of the new job opportunities that are suitable to the needs of application area residents.

(5) A plan to demonstrate innovative and comprehensive strategies to improve community services through the utilization of contracts with private entities, organizations, neighborhood organizations, and neighborhood groups.

(6) A plan to provide insurance for qualified businesses in the program area.

(7) A plan to establish a loan bank or fund to provide capital to qualified businesses in the program area.

(8) A plan to rehabilitate existing abandoned and vacant structures.

(g) The department shall establish regulations and make available the applications for the program not later than 250 days after the effective date of this chapter.

(h) The department may designate areas for the program beginning on the effective date of the regulations described in subdivision (g).

(i) The department may designate not more than a total of nine program areas. In complying with this limitation, the department shall designate not more than three program areas by the end of 1985, not more than six program areas by the end of 1986, and not more than nine program areas by the end of 1987. The department may not designate pursuant to this chapter any area that has been designated for economic development as an enterprise zone under any other provision of state law.

In evaluating applications for designation, the department shall ensure that applications are not disqualified solely because of technical deficiencies and shall provide applicants with an opportunity to correct the deficiencies. Applications shall be disqualified if the deficiencies are not corrected within two weeks.

(j) The department shall adopt regulations concerning the designation procedures and application process as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. For the purpose 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 subdivision (e) of Section 11346.1. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall not remain in effect more than 180 days unless the agency complies with all provisions of Chapter 3.5 as required by subdivision

(e) of Section 11346.1.

SEC. 10. Section 7086 of the Government Code is amended to read:

7086. (a) The department shall provide technical assistance to the areas designated pursuant to this chapter with respect to all of the following activities:

(1) Furnish limited onsite assistance to the program areas when appropriate.

(2) Ensure that the agent has developed a method to make residents, businesses, and neighborhood organizations aware of the opportunities to participate in the program.

(3) Help the locality develop a marketing program for the program areas.

(4) Coordinate activities of other state agencies regarding the program areas.

(5) Monitor the progress of the program.

(6) Help qualified businesses to participate in the program.

Notwithstanding existing law, the provision of services in paragraphs (1) to (6), inclusive, shall be a high priority of the department.

The department may, at its discretion, undertake other activities in providing management and technical assistance for successful implementation of this section.

(b) The department shall submit a report to the Legislature no later than March 20, 1987, and every five years thereafter, which evaluates the effect of the program on employment, investment, and incomes, and on state and local tax revenues in designated program areas.

(c) The applicant shall be required to begin implementation of the program plan contained in the final application within six months after notification of final designation or the program area shall lose its designation.

(d) No designation of a neighborhood economic development area shall be made without an accompanying designation of a targeted economic development area serving the same high density unemployment area. However, designation of a targeted economic development area does not require concurrent designation of a neighborhood economic development area.

SEC. 11. Section 7087 of the Government Code is amended to read:

7087. (a) The applicant shall designate an agent which shall be the prime facilitator of all activities relating to the Employment and Economic Incentive Program. In designating an agent, the applicant may consider the designation of a community-based nonprofit organization, a joint venture between the public and private sector, or an agency of the applicant as the agent.

(b) The responsibilities of the agent shall include, but are not limited to, assisting and coordinating in all of the following:

(1) Providing one-stop service for permit processing for qualified

businesses in the program area. Facilitating the development of qualified businesses shall be the primary responsibility of the agent.

(2) Coordinating the sequence of all inspections to minimize delay to businesses.

(3) Helping the qualified businesses find low-interest capital.

(4) Maintaining labor availability data, which may be obtained from the Employment Development Department.

(5) Assisting in employment recruitment and screening.

(6) Reducing the processing time of the permit process for builders.

(7) Centralizing the processing of documents, permits, and licenses.

(8) Informing all qualified businesses of all the various incentives offered by, and available from, local, state, and the federal government, including, but not limited to, incentives relating to taxation, fee schedules and structures, and modified procedures for permits.

(9) Working with the local and state job training and recruitment resources to make those resources available to qualified businesses.

(c) A community advisory council shall be formed in conjunction with each application for designation, the purpose of which is to allow community involvement in the program. The members of the council shall be appointed by the local governing body and shall consist of at least one representative from each of the following groups:

(1) Program area residents.

(2) High density unemployment area residents.

(3) Businesses located in a program area.

(4) Local government representatives.

(5) Private industry council members.

(6) Department officials, when necessary.

(7) Small business development corporations created pursuant to the Small Business Development Corporation Law, where available.

(8) Community-based organizations.

(d) Any existing community advisory council which contains substantially the same membership may serve as the advisory council provided for by this section.

(e) The advisory council shall do all of the following:

(1) Meet at least once a month during the formulation of the comprehensive economic development strategy for the final application.

(2) Following designation, meet at least once every three months throughout the duration of the program to monitor the progress of the program and to aid and assist the agent with plan implementation.

(3) Initiate or coordinate community programs which may include programs providing for the following:

(A) Neighborhood crime prevention and improved security.

(B) Recreation.

(C) Health care.
(D) Senior citizens nutrition.
(E) Child care.
(F) Job training.

SEC. 12. Section 7087.5 of the Government Code is amended to read:

7087.5. Upon filing a preliminary application, the applicant, as lead agency, shall submit an initial study and a notice of preparation to the department, the state clearinghouse, and all responsible agencies. Only a city, county, or city and county chosen by the department as a final applicant shall prepare, or cause to be prepared, a draft environmental impact report, which shall set forth the potential environmental impacts of any and all development planned within the program area. The draft environmental impact report shall be submitted to the department with the final application. Prior to final designation by the department, the applicant shall complete and certify the final environmental impact report. The environmental impact report shall comply with the information disclosure provisions and the substantive requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. No further environmental impact report shall be required if the effects of the project were either (1) mitigated or avoided as a result of the environmental impact report prepared for the program area, or (2) examined at a sufficient level of detail in the environmental impact report for the program area to enable those effects to be mitigated or avoided by specific site revisions, the imposition of conditions, or other means in connection with the designation of the program area, or (3) identified in the final environmental impact report and the lead agency made written findings that specific economic, social, or other considerations made infeasible the mitigation measures or project alternatives identified in the final environmental impact report.

SEC. 13. Section 7088 of the Government Code is amended to read:

7088. Notwithstanding any other provision of law, state and local agencies are authorized to lease land to qualified businesses in a designated program area at a price below fair market value, provided that it serves a public purpose to lease at below fair market value.

SEC. 14. Section 7089 of the Government Code is amended to read:

7089. Notwithstanding any other provision of law, the Office of Small Business shall establish regulations for loans and loan guarantees administered by the office which give high priority to qualified businesses in a designated program area, or for any business located within an enterprise zone which is designated under any other provision of state law.

SEC. 15. Section 7091 of the Government Code is amended to read:

7091. (a) Notwithstanding the bonding limitation specified in Section 91573, the California Industrial Development Financing Advisory Commission shall authorize an annual maximum amount of qualifying bonds of seventy-five million dollars ($75,000,000).

(b) Notwithstanding Section 91503, the bonding authorization contained in subdivision (a) shall be used for providing funds to qualified businesses within designated program areas or any business which is located within an enterprise zone which is designated under any other provision of state law.

(c) The annual maximum bonding authority specified in subdivision (a) is exclusive of, and in addition to, the maximum bonding authority specified in Section 91573.

(d) The provisions of subdivision (a) shall be operative only until December 31, 1987.

SEC. 16. Section 7092 of the Government Code is amended to read:

7092. Notwithstanding any other provision of law, and to the extent permitted by federal law, the Employment Development Department and the State Department of Education shall give high priority to the training of unemployed individuals who reside in a high density unemployment area, designated program area, or any enterprise zone which is designated under any other provision of state law. The Department of Commerce may assist local agents in designating local business, labor, and education consortia to broker activities between the employment community and educational and training institutions. Any available discretionary funds may be used to assist the creation of those consortia.

SEC. 17. Section 7093 of the Government Code is amended to read:

7093. Notwithstanding any other provision of law, the Office of Criminal Justice Planning shall give high priority to designated program areas, high density unemployment areas, or any enterprise zone which is designated under any other provision of state law, in the allocation of its program resources.

SEC. 18. Section 54222 of the Government Code is amended to read:

54222. Any agency of the state and any local agency disposing of surplus land shall, prior to disposing of that property, send a written offer to sell or lease the property as follows:

(a) A written offer to sell or lease for the purpose of developing low- and moderate-income housing shall be sent to any local agencies including, but not limited to, housing authorities or redevelopment agencies within whose jurisdiction the surplus land is located.

(b) A written offer to sell or lease for park and recreational purposes or open-space purposes shall be sent:

(1) To any park or recreation department of any city within which the land may be situated.

(2) To any park or recreation department of the county within which the land is situated.

(3) To any regional park authority having jurisdiction within the area in which the land is situated.

(4) To the State Resources Agency or any agency which may succeed to its powers.

(c) A written offer to sell or lease for enterprise zone purposes any surplus property in an area designated as an enterprise zone pursuant to Section 7073 shall be sent to the nonprofit neighborhood enterprise association corporation in that zone.

(d) A written offer to sell or lease any surplus property in a designated program area, as defined in subdivision (i) of Section 7082, shall be sent to the program area agent.

(e) A written offer to sell or lease surplus land for school purposes shall be sent to any public school district within whose jurisdiction the surplus land is located.

(f) The entity or association desiring to purchase or lease the surplus land for low- and moderate-income housing purposes, or for park or recreation purposes, or for open-space purposes, or for enterprise zone or program area purposes, shall notify in writing the disposing agency of its intent to purchase or lease the land within 60 days after receipt of the agency's notification of intent to sell the land.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611, this section, as amended by Section 1 of Chapter 45 of the Statutes of 1984, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 19. Section 18 of Chapter 45 of the Statutes of 1984 is repealed.

SEC. 20. The Auditor General shall submit a report to the Legislature on or before June 30, 1987, evaluating the effects of this act, as well as Chapters 44, 45, and 1471 of the Statutes of 1984, for the first two years of their operation.

SEC. 21. The sum of one hundred twenty-five thousand dollars ($125,000) is hereby appropriated from the General Fund to the Department of Commerce for the purposes of Chapters 44, 45, and 1471 of the Statutes of 1984 and this act. The funds appropriated by this section shall remain available for expenditure only until July 1, 1985, and on that date shall revert to the General Fund.

SEC. 22. 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 some of the depressed areas within this state may be economically revitalized as soon as possible in accordance with Chapters 44, 45, and 1471 of the Statutes of 1984, it is necessary that this act go into immediate effect.

CHAPTER 84

An act to amend Section 1373.4 of the Health and Safety Code, relating to health care service plans.

[Approved by Governor June 19, 1985 Filed with Secretary of State June 19, 1985]

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

SECTION 1. Section 1373.4 of the Health and Safety Code is amended to read:

1373.4. (a) On and after January 1, 1985, every health care service plan, that is not a health maintenance organization or is not a plan that enters exclusively into specialized health care service plan contracts, as defined by subdivision (n) of Section 1345, which provides coverage for hospital, medical, or surgical expenses, shall offer coverage to group contract holders for expenses incurred as a result of treatment by holders of certificates under Section 4938 of the Business and Professions Code, under such terms and conditions as may be agreed upon between the health care service plan and the group contract holder.

A health care service plan is not required to offer the coverage provided by this section as part of any contract covering employees of a public entity.

(b) For the purposes of this section, "health maintenance organization" or "HMO" means a public or private organization, organized under the laws of this state, which does all of the following:

(1) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area coverage.

(2) Is compensated, except for copayments, for the provision of basic health care services listed in paragraph (1) to enrolled participants on a predetermined periodic rate basis.

(3) Provides physician services primarily directly through physicians who are either employees or partners of the organization, or through arrangements with individual physicians or one or more groups of physicians, organized on a group practice or individual practice basis.

CHAPTER 85

An act to add Section 21003.1 to the Public Resources Code, relating to environmental quality.

[Approved by Governor June 19, 1985. Filed with Secretary of State June 19, 1985.]

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

SECTION 1. Section 21003.1 is added to the Public Resources Code, to read:

21003.1. The Legislature further finds and declares it is the policy of the state that:

(a) Comments from the public and public agencies on the environmental effects of a project shall be made to lead agencies as soon as possible in the review of environmental documents, including, but not limited to, draft environmental impact reports and negative declarations, in order to allow the lead agencies to identify, at the earliest possible time in the environmental review process, potential significant effects of a project, alternatives, and mitigation measures which would substantially reduce the effects.

(b) Information relevant to the significant effects of a project, alternatives, and mitigation measures which substantially reduce the effects shall be made available as soon as possible by lead agencies, other public agencies, and interested persons and organizations.

(c) Nothing in subdivisions (a) or (b) reduces or otherwise limits public review or comment periods currently prescribed either by statute or in guidelines prepared and adopted pursuant to Section 21083 for environmental documents, including, but not limited to, draft environmental impact reports and negative declarations.

CHAPTER 86

An act to amend Sections 12301 and 12302 of the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 20, 1985. Filed with Secretary of State June 21, 1985.]

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

SECTION 1. The Legislature finds and declares that it has adopted the policy of fostering maximum independence, and that the In-Home Supportive Services program, provided for pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, is a major program which meets this goal. It is, therefore, the intent of this act to assess how In-Home Supportive Services program funds are being utilized.

SEC. 2. Section 12301 of the Welfare and Institutions Code is amended to read:

12301. The intent of the Legislature in enacting this article is to

provide supplemental or additional services to the social and rehabilitative services in Article 6 (commencing with Section 12250) of this chapter. The Legislature further intends that necessary in-home supportive services shall be provided in a uniform manner in every county based on individual need consistent with the appropriation provided for such services in the annual Budget Act and the provisions of this chapter, in the absence of alternative in-home supportive services provided by an able and willing individual or local agency at no cost to the recipient, except as required under Section 12304.5. An able spouse who is available to assist the recipient shall be deemed willing to provide at no cost any services under this article except nonmedical personal services and paramedical services. When a spouse leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and where the inability of such provider to provide supportive services may result in inappropriate placement or inadequate care, the spouse shall also be paid for accompaniment when needed during necessary travel to health-related appointments and protective supervision.

Commencing in fiscal year 1985–86, each county shall be notified of its allocation and projected caseload by July 31 of each fiscal year and shall submit a plan to the department within 30 days showing how the county intends to keep program expenditures under this article within the amount of its allocation plus any matching funds required to be expended by the county. If a county cannot keep expenditures within the amount of its allocation plus any matching funds required to be expended by each county, prior to implementing any program reductions, the county shall submit a reduction plan to the department that is prepared in accordance with subdivisions (a) to (e), inclusive. The reduction plan shall specify which services will be cut and which client population will be affected. Program reductions shall occur only as an incident to an approved plan.

In approving any reduction plan, the department shall consider all program cost components it determines to be relevant. The department shall approve or require modification of such reduction plan as it determines appropriate.

The department may provide additional funds from the existing appropriation to forestall the requirement of any program reductions on a county-by-county basis.

In the event program reductions are necessary, reductions shall be calculated to reduce services only by an amount which would enable a county to remain within the amount of its allocation plus any matching funds required to be expended by each county. Counties that can remain within their allocation shall not implement reductions.

Counties shall also continually monitor their program expenditures throughout the fiscal year. If at any time a county discovers that its anticipated expenditures will exceed the amount of

its allocation plus any matching funds required to be expended by each county, the county shall immediately notify, and submit a reduction plan to, the department for approval prior to implementing program reductions.

The department shall notify the Joint Legislative Budget Committee and the fiscal committees of both houses within 30 days of the date it approves a reduction plan.

Each county shall report all of the following to the department by August 31 of each year:

(1) Information on caseload, including the number of persons who receive 20 or more hours of personal services, between 18 and 20 hours of personal services, the number of persons receiving personal supervision, other special characteristics and the number of cases per age of recipient.

(2) Expected impact on the In-Home Supportive Services program from any new or expanded programs or changed health characteristics of the population, including, but not limited to, the impact of all of the following:

(A) The new linkages program authorized by Chapter 1637 of the Statutes of 1984.

(B) Multipurpose senior service centers.

(C) Adult day health care centers.

(D) Diagnostically related groups and early hospital discharges.

(E) Preadmission screening.

(F) Reported adult abuse.

The county shall also report which methods of outreach are being utilized by the county regarding the availability of services under this article.

When a county does not have the capability of reporting on all cases specified under paragraphs (1) and (2) in a timely manner, the county may report to the department on the basis of a representative sample of cases.

The department shall consider using this information to develop its annual budget request or, should the department decide that a deficiency appropriation is necessary, any deficiency request.

On or before January 10 of each year, the department shall submit a report to the Joint Legislative Budget Committee and the fiscal committees of both houses which includes a compilation of the data collected pursuant to paragraphs (1) and (2) by individual counties and, by county (1) the amount allocated at the beginning of the fiscal year, (2) the amount expended during the first three months of the fiscal year, (3) an estimate of total fiscal year expenditures, (4) any reallocation of funds among counties, and (5) any approved reductions including a description of which services were cut and what clients were affected.

The following priorities are established to direct counties and the department on how to implement needed program reductions:

(1) Reduction in the frequency with which nonessential services are provided.

(2) Elimination of nonessential-service categories.

(3) Termination or denial of eligibility to persons requiring only domestic services.

(4) Termination or denial of eligibility to persons who, in the absence of services, would not require placement in a medical out-of-home care facility.

(5) Per capita reduction in the cost of services authorized.

Any program reductions shall be implemented so as to avoid, to the extent feasible within budgetary constraints, out-of-home placements.

The counties and the State Department of Social Services shall utilize these options in the order of their appearance. In no event shall services be terminated or denied to any eligible person who in the absence of services would require medical out-of-home care. In no event shall services be terminated or denied to any eligible person who in the absence of such services would become unemployed.

Nonessential services are routine mending, ironing, heavy cleaning, domestic services, yard hazard abatement except for snow removal, teaching and demonstration, and any other services specified by the department. Restrictions on nonessential services shall be excepted on a case by case basis when denial or termination of such services would result in placement in a medical out-of-home facility or in a loss of employment, in a life threatening situation in conditions which present a substantial threat to health or safety, or in any other condition specified by the department. Essential services shall at a minimum include those services listed in subdivision (e) of Section 12304.

SEC. 3. Section 12302 of the Welfare and Institutions Code is amended to read:

12302. A county shall, to the extent feasible make any reductions in services evenly throughout the year and shall not wait until the end of the fiscal year to make massive reductions in services to eligible recipients. Each county is obligated to ensure that services are provided to all eligible recipients during each month of the year in accordance with the county plan.

In order to implement such a plan, an individual county may hire homemakers and other in-home supportive personnel in accordance with established county civil service requirements or merit system requirements for those counties not having civil service, or may contract with a city, county, or city and county agency, a local health district, a voluntary nonprofit agency, a proprietary agency, or an individual or make direct payment to a recipient for the purchase of services.

County plans are effective upon submission to the department. In reviewing county plans the department shall assure that plans are in compliance with provisions of this article including compliance with Section 12301. In the event the department finds a county plan is not in compliance it shall take appropriate action to assure compliance.

The department shall monitor the actual monthly expenditures

where available for services to assure compliance with the county plans. If the county's expenditure pattern is not consistent with the plan, the department shall require the county to amend the plan.

SEC. 4. 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 Social Services within 120 days of the effective date of this act in order to implement the provisions of this act 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 adopting agency complies with all the provisions of Chapter 3.5 as required by subdivision (e) of Section 11345.1 of the Government Code.

SEC. 5. The sum of six million nine hundred sixty-eight thousand three hundred dollars ($6,968,300) is hereby appropriated from the General Fund to the Department of Social Services in augmentation of, and subject to the same terms and conditions of Item 5180-151-001 (b) (1) of the Budget Act of 1984 (Chapter 258, Statutes of 1984).

SEC. 6. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act which will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, and 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 in-home supportive services provider payments be uninterrupted, it is necessary that this act go into immediate effect.

CHAPTER 87

An act to amend Sections 33130 and 33201 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor June 25, 1985. Filed with Secretary of State June 25, 1985.]

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

SECTION 1. Section 33130 of the Health and Safety Code is amended to read:

33130. (a) No agency or community officer or employee who in the course of his or her duties is required to participate in the

formulation of, or to approve plans or policies for, the redevelopment of a project area shall acquire any interest in any property included within a project area within the community. If any such officer or employee owns or has any direct or indirect financial interest in property included within a project area, that officer or employee shall immediately make a written disclosure of that financial interest to the agency and the legislative body and the disclosure shall be entered on the minutes of the agency and the legislative body. Failure to make the disclosure required by this subdivision constitutes misconduct in office.

(b) Subdivision (a) does not prohibit any agency or community officer or employee from acquiring an interest in property within the project area for the purpose of participating as an owner or reentering into business pursuant to this part if that officer or employee has owned a substantially equal interest as that being acquired for the three years immediately preceding the selection of the project area.

(c) A rental agreement or lease of property which meets all of the following conditions is not an interest in property for purposes of subdivision (a):

(1) The rental or lease agreement contains terms that are substantially equivalent to the terms of a rental or lease agreement available to any member of the general public for comparable property in the project area.

(2) The rental or lease agreement includes a provision which prohibits any subletting, sublease, or other assignment at a rate in excess of the rate in the original rental or lease agreement.

(3) The property which is subject to the rental or lease agreement is used in the pursuit of the principal business, occupation, or profession of the officer or employee.

(4) The agency or community officer or employee who obtains the rental or lease agreement immediately makes a written disclosure of that fact to the agency and the legislative body.

SEC. 2. Section 33201 of the Health and Safety Code is amended to read:

33201. (a) A legislative body which has declared itself to be the agency pursuant to Section 33200 may by ordinance create a community redevelopment commission. The ordinance shall establish the number of members of the commission, but not less than seven, their terms of office, and the method of their appointment and removal.

(b) (1) No member of the commission shall acquire any interest in any property included within a project area. Any member who owns or has any direct or indirect financial interest in any property within a project area shall immediately make a written disclosure of that interest to the legislative body.

(2) A rental agreement or lease of property which meets all of the following conditions is not an interest in property for purposes of paragraph (1):

(A) The rental or lease agreement contains terms that are substantially equivalent to the terms of a rental or lease agreement available to any member of the general public for comparable property in the project area.

(B) The rental or lease agreement includes a provision which prohibits any subletting, sublease, or other assignment at a rate in excess of the rate in the original rental or lease agreement.

(C) The property which is subject to the rental or lease agreement is used in the pursuit of the principal business, occupation, or profession of the member of the commission.

(D) The member of the commission who obtains the rental or lease agreement immediately makes a written disclosure of that fact to the commission and the legislative body.

CHAPTER 88

An act to repeal Sections 35792, 35793, and 35794 of the Vehicle Code, relating to transportation permits.

[Approved by Governor June 25, 1985 Filed with Secretary of State June 25, 1985]

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

SECTION 1. Section 35792 of the Vehicle Code is repealed.

SEC. 2. Section 35793 of the Vehicle Code is repealed.

SEC. 3. Section 35794 of the Vehicle Code is repealed.

CHAPTER 89

An act to add Section 9403.5 to the Commercial Code, relating to secured transactions.

[Approved by Governor June 25, 1985 Filed with Secretary of State June 25, 1985]

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

SECTION 1. Section 9403.5 is added to the Commercial Code, to read:

9403.5. For purposes of Section 9403:

(1) A financing statement becomes effective on the date when filed, other than that portion of the day preceding the time of filing.

(2) The final day of effectiveness of a financing statement or continuation statement is, except as provided in subdivision (3), the same day of the year as the filing of the financing statement, in five-year increments specified in Section 9403. The financing

statement or continuation statement is in effect for the entirety of its final day of effectiveness.

(3) If, under subdivision (2), the final day of effectiveness of a financing statement or continuation statement would occur on a Saturday, Sunday, or legal holiday, the effectiveness thereof is extended until the next day that is not a Saturday, Sunday, or legal holiday. If, under subdivision (2), the last day of effectiveness would occur on February 29 in any calendar year that does not include February 29, the final day of effectiveness is February 28.

(4) A continuation statement may be filed at any time on the final day of effectiveness of the financing statement or prior continuation statement.

(5) This section clarifies the meaning of Section 9403. As this section affects lapse and continuation, it shall be applied to all financing and continuation statements, whether filed before or on or after January 1, 1986, so long as the effectiveness of the financing statement has not lapsed prior to that date.

CHAPTER 90

An act to amend Sections 3918 and 6345 of the Probate Code, relating to the Uniform Transfers to Minors Act.

[Approved by Governor June 25, 1985. Filed with Secretary of State June 25, 1985]

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

SECTION 1. Section 3918 of the Probate Code is amended to read:

3918. (a) A person nominated under Section 3903 or designated under Section 3909 as custodian may decline to serve by delivering a valid disclaimer under Division 2.5 (commencing with Section 260) to the person who made the nomination or to the transferor or the transferor's legal representative. If the event giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible to serve was nominated under Section 3903, the person who made the nomination may nominate a substitute custodian under Section 3903; otherwise the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under subdivision (a) of Section 3909. The custodian so designated has the rights of a successor custodian.

(b) A custodian at any time may designate a trust company or an adult other than a transferor under Section 3904 as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the

instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed. The transferor may designate one or more persons as successor custodians to serve, in the designated order of priority, in case the custodian originally designated or a prior successor custodian is unable, declines, or is ineligible to serve or resigns, dies, becomes incapacitated, or is removed. The designation either (1) shall be made in the same transaction and by the same document by which the transfer is made or (2) shall be made by executing and dating a separate instrument of designation before a subscribing witness other than a successor as a part of the same transaction and contemporaneously with the execution of the document by which the transfer is made. The designation is made by setting forth the successor custodian's name, followed in substance by the words: " is designated [first, second, etc., where applicable] successor custodian." A successor custodian designated by the transferor may be a trust company or an adult other than a transferor under Section 3904. A successor custodian effectively designated by the transferor has priority over a successor custodian designated by a custodian.

(c) A custodian may resign at any time by delivering written notice to the minor if the minor has attained the age of 14 years and to the successor custodian and by delivering the custodial property to the successor custodian.

(d) If the transferor has not effectively designated a successor custodian, and a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor and the minor has attained the age of 14 years, the minor may designate as successor custodian, in the manner prescribed in subdivision (b), an adult member of the minor's family, a conservator of the minor, or a trust company. If the minor has not attained the age of 14 years or fails to act within 60 days after the ineligibility, death, or incapacity, the conservator of the minor becomes successor custodian. If the minor has no conservator or the conservator declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or any other interested person may petition the court to designate a successor custodian.

(e) A custodian who declines to serve under subdivision (a) or resigns under subdivision (c), or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian by action may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(f) A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the person of the minor, the conservator of the minor, or the minor if the minor has attained

the age of 14 years, may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor under Section 3904 or to require the custodian to give appropriate bond.

(g) Upon the filing of a petition under subdivision (d) or (f), the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor.

SEC. 2. Section 6345 of the Probate Code is amended to read:

6345. The testator in his or her will may provide for successor or substitute custodians and may specify the standard of compensation of the custodian.

CHAPTER 91

An act to add Section 71250.5 to the Water Code, relating to municipal water districts.

[Approved by Governor June 25, 1985 Filed with Secretary of State June 25, 1985]

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

SECTION 1. Section 71250.5 is added to the Water Code, to read:

71250.5. If a director moves his or her residence, as defined in Section 244 of the Government Code, outside the boundaries of that director's division, and if within 180 days of the move or the effective date of this section, the director fails to reestablish a place of residence within the director's division, it shall be presumed that a permanent change of residence has occurred and that a vacancy exists on the board of directors pursuant to Section 1770 of the Government Code.

CHAPTER 92

An act to amend Section 36447.10 of the Water Code, relating to California water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 25, 1985 Filed with Secretary of State June 25, 1985.]

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

SECTION 1. Section 36447.10 of the Water Code is amended to read:

36447.10. The board may provide for the bonds to bear a variable interest rate, for the manner and intervals in which the rate shall vary, and for the dates on which the interest shall be payable.

The variable rate shall on no day exceed the maximum rate permitted for bonds of the district on that day by Section 53541 of the Government Code or any other applicable provisions of law. However, the variable interest rate so permitted may on any day exceed that maximum rate if the interest paid on the bonds from their date of original issuance to that day does not exceed the total interest which would have been permitted to have been paid on the bonds if the bonds had borne interest at all times from the date of issuance to that day at the maximum rate permitted from time to time by Section 53541 of the Government Code or any other applicable provisions of law.

The district may enter into arrangements for the remarketing or resale of the bonds, the purchase and holding of the bonds, liquidity support, debt service insurance or other credit enhancement, and such other matters related to the bonds as the board determines to be necessary or appropriate. The board may provide for the payment of the fees and costs of those arrangements from the proceeds of the bonds or from any other lawfully available source designated by the board, or from any combination thereof.

SEC. 2. The Legislature finds and declares that there are special financial circumstances unique to the Irvine Ranch Water District and the Santa Margarita Water District which make the provisions of this act necessary and that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable.

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

Reduced issuance expenses are achievable for bonds of the Irvine Ranch Water District's improvement districts if authority is given to those districts to comply with the statutory maximum interest rate in a certain manner differing from that currently specified. To afford the district the earliest possible opportunity to lower the financial burden of debt service for the ratepayers and taxpayers, it is necessary that this act take effect immediately.

CHAPTER 93

An act to add Section 40007 to the Vehicle Code, relating to vehicle occupational licensing.

[Approved by Governor June 26, 1985. Filed with Secretary of State June 26, 1985.]

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

SECTION 1. Section 40007 is added to the Vehicle Code, to read:

40007. Division 5 (commencing with Section 11100) does not preclude the application of any other statutory provision which is applicable to any act violating any provision of Division 5.

CHAPTER 94

An act to amend Section 1141.24 of the Code of Civil Procedure, relating to judicial arbitration.

[Approved by Governor June 26, 1985. Filed with Secretary of State June 26, 1985]

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

SECTION 1. Section 1141.24 of the Code of Civil Procedure is amended to read:

1141.24. In cases ordered to arbitration pursuant to subdivision (a) of Section 1141.16, absent a stipulation to the contrary, no discovery other than that permitted by Section 2037 is permissible after an arbitration award except by leave of court upon a showing of good cause.

SEC. 2. This act shall become operative only if the January 1, 1986, repeal date of Section 1141.24 of the Code of Civil Procedure, pursuant to Section 1141.32 of that code, is deleted or extended by another act which is enacted and becomes operative on or before January 1, 1986.

CHAPTER 95

An act to amend Sections 12031, 12034, and 12052 of the Food and Agricultural Code, relating to pest control advisers.

[Approved by Governor June 26, 1985 Filed with Secretary of State June 26, 1985.]

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

SECTION 1. Section 12031 of the Food and Agricultural Code is amended to read:

12031. Each agricultural pest control adviser who makes any recommendation for agricultural use shall register in person with the agricultural commissioner in the county listed in the adviser's address on the license issued pursuant to Article 2 (commencing with Section 12021) or with the director if the county does not have an agricultural commissioner. If the address of the adviser on the state license is not within this state, the registration shall be in the county of occupational choice. Registration in any additional county shall be made by mail or in person, at the discretion of the commissioner of the additional county. The additional registration by mail shall be made on prescribed forms which may be obtained and processed in the county listed in the address of the adviser on the state license or the county of occupational choice, as the case may be.

SEC. 2. Section 12034 of the Food and Agricultural Code is amended to read:

12034. County boards of supervisors may set fees for registration to cover the cost of registering pest control advisers, but in no case shall the fee total more than ten dollars ($10) per year for a pest control adviser to register in person in the county listed in the adviser's address on the license issued pursuant to Article 2 (commencing with Section 12021) or the county of occupational choice, as the case may be, and five dollars ($5) per year for an adviser to register in an additional county as provided in Section 12031.

SEC. 3. Section 12052 of the Food and Agricultural Code is amended to read:

12052. It is unlawful for any person to act or offer to act as an agricultural pest control adviser in any county wherein the adviser makes any recommendation for agricultural use without first registering with the county agricultural commissioner of that county.

CHAPTER 96

An act to amend Section 4513 of the Civil Code, and to amend Section 26826 of the Government Code, relating to family law.

[Approved by Governor June 26, 1985 Filed with Secretary of State June 26, 1985]

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

SECTION 1. Section 4513 of the Civil Code is amended to read:

4513. In cases in which the court has determined that a decree of dissolution ought to be granted, but by mistake, negligence or

inadvertence, the judgment has not been signed, filed and entered, the court may cause the judgment to be signed, dated, filed and entered therein as of the date when the same could have been signed, dated, filed and entered originally, if it appears to the satisfaction of the court that no appeal is to be taken in the action or motion made for a new trial, to annul or set aside the judgment or for relief under Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure. This action may be taken by the court on its own motion or upon the motion of either party thereto. In contested cases, the motion of a party shall be with notice to the other party. The court may cause the judgment to be entered nunc pro tunc as aforesaid, even though the judgment may have been previously entered, where mistake, negligence or inadvertence the judgment was not entered as soon as it could have been entered under the law if applied for. Upon the entry of the judgment, the parties shall have the same rights with regard to the dissolution of marriage becoming final on the date that it would have become final, had the judgment been entered upon the date when it could have been originally entered.

SEC. 2. Section 26826 of the Government Code is amended to read:

26826. (a) The total fee for filing the first paper in the action on behalf of any defendant, intervenor, respondent, or adverse party, whether separately or jointly, except for the purpose of making disclaimer shall be the sum fixed by resolution adopted pursuant to Section 68090, which shall not exceed the following maximum amounts:

(1) In any county where a fee is collected for the court reporter fund, the total fees shall not exceed sixty-three dollars ($63).

(2) In any county where a fee is not collected for the court reporter fund, the total fee shall not exceed thirty-five dollars ($35).

(b) As used in this section the word "paper" does not include any of the following:

(1) A stipulation for the appointment of a temporary judge or of a court investigator or the report made by the investigator.

(2) The declaration of a spouse filed in an order to show cause proceeding.

(3) A marital settlement agreement which is signed by a defaulted respondent and intended for incorporation in a proposed decree of dissolution of marriage.

(4) A stipulation regarding the date of termination of the marital status when the court has retained jurisdiction over that date.

(5) A document relating to a stipulated postjudgment modification of child support.

CHAPTER 97

An act to amend Section 56039 of the Government Code, and to amend Sections 1178, 1179, 1185, 1194, and 1197 of, and to add Sections 1179.5 and 1194.5 to, the Streets and Highways Code, relating to permanent road divisions.

[Approved by Governor June 26, 1985. Filed with Secretary of State June 26, 1985]

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

SECTION 1. Section 56039 of the Government Code is amended to read:

56039. "District" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries. "District" includes a county service area, but excludes all of the following:

(a) The state.

(b) A county.

(c) A city, except for the provisions of this division relating to a merger, the establishment of a subsidiary district, or a reorganization which includes an annexation to, a detachment from, or disincorporation of, a city when the affected city does not object to such annexation, detachment, or disincorporation, or the incorporation of a new city when the board of supervisors does not object to such incorporation.

(d) A school district.

(e) A unified or union high school library district.

(f) A special assessment district.

(g) An improvement district.

(h) A community facilities district formed pursuant to either of the Mello-Roos Community Facilities Acts of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5, as added by Chapter 1439 or Chapter 1451 of the Statutes of 1982.

(i) An air pollution control district or an air quality maintenance district.

(j) A bridge and highway district or a joint highway district.

(k) A transit or rapid transit district or authority.

(*l*) A metropolitan water district.

(m) A flood control district, a flood control and floodwater conservation district, a flood control and water conservation district, a conservation district, a water conservation district, a water replenishment district, the Orange County Water District, a California water storage district, a water agency, a county water authority or a water authority, if the commission of the principal county determines, in accordance with Sections 56015 and 56016, that any district, agency, or authority enumerated in this subdivision is

not a "district" within the meaning of this division.

(n) A permanent road division formed pursuant to Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.

SEC. 2. Section 1178 of the Streets and Highways Code is amended to read:

1178. If two-thirds of the votes cast are for the tax, the board shall annually, at the time of levying the county taxes, levy a special tax in the division sufficient to raise the amount voted for the current fiscal year, sufficient to meet estimated costs of maintenance for the current fiscal year, and sufficient to reimburse the county for any expenses recoverable under Section 1197.

SEC. 3. Section 1179 of the Streets and Highways Code is amended to read:

1179. The tax so levied shall be collected in the same manner as county taxes and, when collected, shall be paid into the county treasury for the use of the division in which the tax is collected.

SEC. 4. Section 1179.5 is added to the Streets and Highways Code, to read:

1179.5. In lieu of, or in addition to, any special tax levied pursuant to Section 1178, the board may fix and collect parcel charges for any permanent road division in the same manner as for miscellaneous extended services in county services areas pursuant to Article 7 (commencing with Section 25210.70) of Chapter 2.2 of Part 2 of Division 2 of Title 3 of the Government Code.

SEC. 5. Section 1185 of the Streets and Highways Code is amended to read:

1185. The board, by an order entered upon its minutes, shall prescribe all of the following:

(a) The form of the bonds.

(b) The time when the bonds become due, not exceeding 40 years from the date thereof.

(c) The rate of interest the bonds shall bear, not exceeding the maximum rate permitted by law.

SEC. 6. Section 1194 of the Streets and Highways Code is amended to read:

1194. On payment of all debts of the division or on the failure of the division within two years after formation to vote a special tax or bonds for any proposed work, the division shall cease to exist, unless the division also exists for the purpose of maintenance.

SEC. 7. Section 1194.5 is added to the Streets and Highways Code, to read:

1194.5. A permanent road division formed for the purpose of maintenance that has ceased to exist as a result of the amendments made to Section 1194 by Section 3 of Chapter 1025 of the Statutes of 1969 may be reinstated as an active and functioning division upon order of the board of supervisors adopted by resolution, if the board finds that the necessity for maintenance work within the division continues to exist and any limited period of maintenance set forth in

the petition for the formation of the division has not expired.

SEC. 8. Section 1197 of the Streets and Highways Code is amended to read:

1197. The expenses of organizing a division, conducting any necessary election, and providing engineering services, pursuant to this article, shall be a county charge payable out of the county general fund. If a division is formed and a tax levy authorized or parcel charge imposed, the expenses shall be recovered by the county from the funds of the division.

SEC. 9. It is the intent of the Legislature, in enacting this act, to provide an opportunity for counties and for residents within existing and former permanent road divisions to offset the partial or total loss of revenue to any division resulting from the adoption of Article XIII A of the California Constitution, and to provide for the reinstatement of any former permanent road division, formed for the purpose of maintenance, that ceased to exist due to the effect of Article XIII A of the California Constitution and the amendment of Section 1194 of the Streets and Highways Code by Section 3 of Chapter 1025 of the Statutes of 1969.

CHAPTER 98

An act to add and repeal Section 36516.6 of the Government Code, relating to cities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 26, 1985 Filed with Secretary of State June 26, 1985.]

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

SECTION 1. Section 36516.6 is added to the Government Code, to read:

36516.6. Notwithstanding Section 36516.5, a city council, one or more members of which were elected or reelected to a term of office which commenced on or after January 1, 1984, may, by an ordinance adopted by the council which becomes effective on or prior to December 31, 1986, increase the salaries of all council members in accordance with the schedule prescribed by Section 36516.

This section shall not be construed as authorizing an increase in salary for any period of time prior to the effective date of an ordinance adopted pursuant to this section.

This section shall remain in effect only until January 1, 1987, and on that date is repealed.

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 cities may implement the salary increases for city council members authorized by Chapter 100 of the Statutes of 1984, prior to councilmanic elections in 1986, it is necessary that this act take effect immediately, as an urgency statute.

CHAPTER 99

An act to add Section 33.2 to the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951), relating to the Kings River Conservation District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 26, 1985. Filed with Secretary of State June 26, 1985.]

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

SECTION 1. Section 33.2 is added to the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951), to read:

Sec. 33.2. Notwithstanding Section 54388 of the Government Code or any other provision of law, the board may sell up to four hundred fifty million dollars ($450,000,000) principal amount of the bonds authorized to be issued for the Dinkey Creek Hydroelectric Project and related facilities at the election held in the district on November 3, 1981, pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) at private sale or at public sale, whichever it determines.

The board, prior to approving the sale of the bonds authorized in this section, shall retain a nationally recognized investment firm which has had no prior relationship with the district, to make findings of fact in a report which finds both of the following:

(a) The underwriter's spread is reasonable.

(b) The final negotiated offering is consistent with common practices in the industry and is comparable to other bond offerings of a like amount being offered at the same time.

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 Kings River Conservation District may issue revenue bonds at the earliest possible date, it is necessary that this act take effect immediately.

CHAPTER 100

An act to repeal and add Section 1511 of the Evidence Code, relating to evidence.

[Approved by Governor June 26, 1985 Filed with Secretary of State June 26, 1985]

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

SECTION 1. Section 1511 of the Evidence Code is repealed.

SEC. 2. Section 1511 is added to the Evidence Code, to read:

1511. A duplicate is admissible to the same extent as an original unless (a) a genuine question is raised as to the authenticity of the original or (b) in the circumstances it would be unfair to admit the duplicate in lieu of the original.

CHAPTER 101

An act to amend Section 741 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor June 26, 1985 Filed with Secretary of State June 26, 1985]

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

SECTION 1. Section 741 of the Welfare and Institutions Code is amended to read:

741. The juvenile court may, in any case before it in which a petition has been filed as provided in Article 16 (commencing with Section 650), order that the probation officer obtain the services of such psychiatrists, psychologists, physicians and surgeons, dentists, optometrists, audiologists, or other clinical experts as may be required to assist in determining the appropriate treatment of the minor and as may be required in the conduct or implementation of the treatment. Payment for the services shall be a charge against the county.

CHAPTER 102

An act to amend Section 2924f of the Civil Code, and to amend Section 9504 of the Commercial Code, relating to secured creditors, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 26, 1985 Filed with Secretary of State June 26, 1985.]

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

SECTION 1. Section 2924f of the Civil Code is amended to read:

2924f. (a) As used in this section and Sections 2924g and 2924h "property" means real property or a leasehold estate therein.

(b) Except as provided in subdivision (c), before any sale of property can be made under the power of sale contained in any deed of trust or mortgage notice of the sale thereof shall be given by posting a written notice of the time of sale and of the street address and the specific place at the street address where the sale will be held, and describing the property to be sold, at least 20 days before the date of sale in one public place in the city where the property is to be sold, if the property is to be sold in a city, or, if not, then in one public place in the judicial district in which the property is to be sold, and publishing a copy thereof once a week for the same period, in a newspaper of general circulation published in the city in which the property or some part thereof is situated, if any part thereof is situated in a city, if not, then in a newspaper of general circulation published in the judicial district in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district, as the case may be, in a newspaper of general circulation published in the county in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district or county, as the case may be, in a newspaper of general circulation published in the county in this state that (1) is contiguous to the county in which the property or some part thereof is situated and (2) has, by comparison with all similarly contiguous counties, the highest population based upon total county population as determined by the most recent federal decennial census published by the Bureau of the Census. A copy of the notice of sale shall also be posted in a conspicuous place on the property to be sold at least 20 days before the date of sale, where possible and where not restricted for any reason. If the property is a single-family residence the posting shall be on a door of the residence, but, if not possible or restricted, then the notice shall be posted in a conspicuous place on the property; however, if access is denied because a common entrance to the property is restricted by a guard gate or similar impediment, the property may be posted at that guard gate or similar impediment to any development community. Additionally, the notice of sale shall be

recorded with the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale. The notice of sale shall contain the name, street address, and telephone number of the trustee or other person conducting the sale and shall contain the statement required by paragraph (3) of subdivision (c). In addition to any other description of the property, the notice shall describe the property by giving its street address, if any, or other common designation, if any; but if the property has no street address or other common designation, the notice shall contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that directions may be obtained pursuant to a written request submitted to the beneficiary within 10 days from the first publication of the notice. Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary or directions obtained therefrom are omitted. The term newspaper of general circulation as used in this section has the same meaning as defined in Article 1 (commencing with Section 6000) of Chapter 1 of Division 7 of Title 1 of the Government Code.

The notice of sale shall contain a statement of the total amount of the unpaid balance of the obligation secured by the property to be sold and reasonably estimated costs, expenses, and advances at the time of the initial publication of the notice of sale; provided, that the trustee shall incur no liability for any good faith error in stating the proper amount. An inaccurate statement of this amount shall not affect the validity of any sale to a bona fide purchaser for value, nor shall the failure to post the notice of sale on a door as provided by this subdivision affect the validity of any sale to a bona fide purchaser for value.

(c) (1) This subdivision applies only to deeds of trust or mortgages which contain a power of sale and which are secured by real property containing a single-family, owner-occupied residence, where the obligation secured by the deed of trust or mortgage is contained in a contract for goods or services subject to the provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3).

(2) Except as otherwise expressly set forth in this subdivision, all other provisions of law relating to the exercise of a power of sale shall govern the exercise of a power of sale contained in a deed of trust or mortgage described in paragraph (1).

(3) If any default of the obligation secured by a deed of trust or

mortgage described in paragraph (1) has not been cured within 30 days after the recordation of the notice of default, the trustee or mortgagee shall mail to the trustor or mortgagor, at his or her last known address, a copy of the following statement:

YOU ARE IN DEFAULT UNDER A

_____ ,
(Deed of trust or mortgage)

DATED _____. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

(4) All sales of real property pursuant to a power of sale contained in any deed of trust or mortgage described in paragraph (1) shall be held in the county where the residence is located and shall be made to the person making the highest offer. The trustee may receive offers during the 10-day period immediately prior to the date of sale and if any offer is accepted in writing by both the trustor or mortgagor and the beneficiary or mortgagee prior to the time set for sale, the sale shall be postponed to a date certain and, prior to which the property may be conveyed by the trustor to the person making the offer according to its terms. The offer is revocable until accepted. The performance of the offer following acceptance, according to its terms by a conveyance of the property to the offeror shall operate to terminate any further proceeding under the notice of sale and it shall be deemed revoked.

(5) In addition to the trustee fee pursuant to Section 2924c, the trustee or mortgagee pursuant to a deed of trust or mortgage subject to this subdivision shall be entitled to charge an additional fee of fifty dollars ($50).

(6) This subdivision applies only to property on which notices of default were filed on or after the effective date of this subdivision.

SEC. 2. Section 9504 of the Commercial Code is amended to read:

9504. (1) A secured party after default may sell, lease or otherwise dispose of any or all of the collateral in its then condition or following any commercially reasonable preparation or processing Any sale of goods is subject to the division on sales (Division 2). The proceeds of disposition shall be applied in the order following to:

(a) The reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) The satisfaction of indebtedness secured by the security interest under which the disposition is made;

(c) The satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed

and to the satisfaction of any subordinate attachment lien or execution lien pursuant to subdivision (b) of Section 701.040 of the Code of Civil Procedure if notice of the levy of attachment or execution is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the secured party need not comply with his demand.

(2) If the security interest secures an indebtedness, the secured party must account to the debtor for any surplus except as provided in Section 701.040 of the Code of Civil Procedure, and, unless otherwise agreed, the debtor is liable for any deficiency. But if the underlying transaction was a sale of accounts or chattel paper, the debtor is entitled to any surplus or is liable for any deficiency only if the security agreement so provides and the provisions of Section 701.040 of the Code of Civil Procedure relating to payment of proceeds and the liability of the secured party apply only if the security agreement provides that the debtor is entitled to any surplus.

(3) A sale or lease of collateral may be as a unit or in parcels, at wholesale or retail and at any time and place and on any terms, provided the secured party acts in good faith and in a commercially reasonable manner. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the secured party must give to the debtor, if he has not signed after default a statement renouncing or modifying his right to notification of sale, and to any other person who has a security interest in the collateral and who has filed with the secured party a written request for notice giving his address (before that secured party sends his notification to the debtor or before debtor's renunciation of his rights), a notice in writing of the time and place of any public sale or of the time on or after which any private sale or other intended disposition is to be made. Such notice must be delivered personally or be deposited in the United States mail postage prepaid addressed to the debtor at his address as set forth in the financing statement or as set forth in the security agreement or at such other address as may have been furnished to the secured party in writing for this purpose, or, if no address has been so set forth or furnished, at his last known address, and to any other secured party at the address set forth in his request for notice, at least five days before the date fixed for any public sale or before the day on or after which any private sale or other disposition is to be made. Notice of the time and place of a public sale shall also be given at least five days before the date of sale by publication once in a newspaper of general circulation published in the county in which the sale is to be held or in case no newspaper of general circulation is published in the county in which the sale is to be held, in a newspaper of general circulation published in the county in this state that (1) is

contiguous to the county in which the sale is to be held and (2) has, by comparison with all similarly contiguous counties, the highest population based upon total county population as determined by the most recent federal decennial census published by the Bureau of the Census. Any public sale shall be held in the county or place specified in the security agreement, or if no county or place is specified in the security agreement, in the county in which the collateral or any part thereof is located or in the county in which the debtor has his residence or chief place of business, or in the county in which the secured party has his residence or a place of business if the debtor does not have a residence or chief place of business within this state. If the collateral is located outside of this state or has been removed from this state, a public sale may be held in the locality in which the collateral is located. Any public sale may be postponed from time to time by public announcement at the time and place last scheduled for the sale. The secured party may buy at any public sale and if the collateral is customarily sold in a recognized market or is the subject of widely or regularly distributed standard price quotations he may buy at private sale. Any sale of which notice is delivered or mailed and published as herein provided and which is held as herein provided is a public sale.

(4) When collateral is disposed of by a secured party after default, the disposition transfers to a purchaser for value all of the debtor's rights therein, discharges the security interest under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interest even though the secured party fails to comply with the requirements of this chapter or of any judicial proceedings.

(a) In the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he does not buy in collusion with the secured party, other bidders or the person conducting the sale; or

(b) In any other case, if the purchaser acts in good faith.

(5) A person who is liable to a secured party under a guaranty, indorsement, repurchase agreement or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party. Such a transfer of collateral is not a sale or disposition of the collateral under this division.

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

There is at least one county in California where the absence of a newspaper of general circulation which is published in the county renders impossible strict compliance with the requirements of Section 2924f of the Civil Code or Section 9504 of the Commercial Code. It is necessary that this measure take immediate effect so that this situation is remedied without delay.

CHAPTER 103

An act to amend Section 6254 of the Government Code, relating to records.

[Approved by Governor June 26, 1985 Filed with Secretary of State June 26, 1985]

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

SECTION 1. 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 intraagency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those 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 the pending 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 intraagency 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 in this division 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.

(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 the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of the 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. The name of a victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code may be withheld at the victim's request, or at the

request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(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 or 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 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 the 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 the 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 that 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 of 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 the licensing agency to establish his or her 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 the financial data would be competitively injurious to the applicant and the 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 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees.

Contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services which is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals which has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

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.

Nothing in this section is to be construed as preventing any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

CHAPTER 104

An act to amend Sections 25354, 25372, 25375, 25378, and 25381 of, to add Section 25375.5 to, and to repeal and add Section 25379 of, the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 26, 1985 Filed with Secretary of State June 26, 1985]

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

SECTION 1. Section 25354 of the Health and Safety Code is amended to read:

25354. (a) There is hereby continuously appropriated from the state account to the department the sum of one million dollars ($1,000,000) for each fiscal year as a reserve account for emergencies, notwithstanding Section 13340 of the Government Code. The department shall expend moneys available in the reserve account only for the purpose of taking immediate corrective action necessary to remedy or prevent an emergency resulting from a fire or an explosion of, or human exposure to, hazardous substances caused by the release or threatened release of a hazardous substance.

(b) Notwithstanding any other provision of law, the department may enter into written contracts for corrective action taken or to be taken pursuant to subdivision (a), and may enter into oral contracts, not to exceed two thousand dollars ($2,000) in obligation, when, in the judgment of the department, immediate corrective action is necessary to remedy or prevent an emergency specified in subdivision (a). The contracts, whether written or oral, may include provisions for the rental of tools or equipment, either with or without operators furnished, and for the furnishing of labor and materials necessary to accomplish the work. If the department finds that the corrective action includes the relocation of individuals, the department may contract with those individuals for out-of-pocket expenses incurred in moving for an amount of not more than one thousand dollars ($1,000).

(c) Any disbursement made pursuant to subdivision (a) shall be reported to the Director of Finance within 72 hours of commencement of the corrective action taken.

(d) Once the appropriation made pursuant to subdivision (a) is fully expended, the director shall file a report with the Legislature if it is in session or, if it is not in session, with the Committee on Rules of the Assembly and the Senate as to the moneys expended pursuant to this section. The Legislature may appropriate moneys from the state account, in addition to those moneys appropriated pursuant to subdivision (a), to the department for the purpose of taking corrective action pursuant to subdivision (a).

(e) Except as provided in subdivision (d), in no event shall the

amount deposited in the reserve account and appropriated pursuant to this section exceed one million dollars ($1,000,000) in any fiscal year. On June 30 of each year, the unencumbered balance of the reserve account shall revert to and be deposited in the state account.

SEC. 2. Section 25372 of the Health and Safety Code is amended to read:

25372. Any person may apply to the board, pursuant to Section 25373, for compensation of a loss caused by the release, in California, of a hazardous substance if any of the following conditions are met:

(a) The source of the release of the hazardous substance, or the identity of the party liable for damages in connection therewith or responsible for the costs of removal of the hazardous substance, is unknown or cannot, with reasonable diligence, be determined.

(b) The loss was not compensable pursuant to law, including Chapter 6.5 (commencing with Section 25100), because there is no liable party or the judgment could not be satisfied, in whole or part, against the party determined to be liable for the release of the hazardous substance.

(c) The person has presented a written demand for compensation, which sets forth the basis for the claim, to the party which the person reasonably believes is liable for a loss specified in paragraph (1) of subdivision (a) of Section 25375 which was incurred by that person and is compensable pursuant to this article, the person has presented the board with a copy of the demand, and, within 60 days after presenting the demand, the party has either rejected, in whole or in part, the demand to be compensated for a loss specified in paragraph (1) of subdivision (a) of Section 25375, or has not responded to the demand. Only losses specified in paragraph (1) of subdivision (a) of Section 25375 are compensable under a claim filed pursuant to this subdivision.

SEC. 3. Section 25375 of the Health and Safety Code is amended to read:

25375. (a) If the board makes the determination, specified in subdivision (b), that losses resulted from the claimant's damages, injury, or disease, only the following losses are compensable pursuant to this article:

(1) One hundred percent of uninsured, out-of-pocket medical expenses, for up to three years from the onset of treatment.

(2) Eighty percent of any uninsured, actual lost wages, or business income in lieu of wages, caused by injury to the claimant or the claimant's property, not to exceed fifteen thousand dollars ($15,000) per year for three years.

(b) A loss specified in subdivision (a) is compensable if the board makes all of the following findings, based upon a preponderance of the evidence:

(1) A release of a hazardous substance occurred.

(2) The claimant or the claimant's property was exposed to the release of the hazardous substance.

(3) The exposure of the claimant to the release of the hazardous

substance was of such a duration, and to such a quantity of the hazardous substance, that the exposure caused the damages, injury, or disease which resulted in the claimant's loss.

(c) No money shall be used for the payment of any claim authorized by this chapter, where the claim is the result of long-term exposure to ambient concentrations of air pollutants.

SEC. 4. Section 25375.5 is added to the Health and Safety Code, to read:

25375.5. (a) Except as specified in subdivision (b), the procedures specified in Section 11513 of the Government Code apply to the proceedings conducted by the board pursuant to this article.

(b) Notwithstanding subdivision (a), Sections 801, 802, 803, 804, and 805 of the Evidence Code apply to the proceedings conducted by the board pursuant to this article.

(c) The board may consider evidence presented by any person against whom a demand was made pursuant to subdivision (c) of Section 25372. The evidence presented by that person shall become a part of the record upon which the board's decision shall be based.

SEC. 5. Section 25378 of the Health and Safety Code is amended to read:

25378. (a) Compensation of any loss pursuant to this article shall preclude indemnification or reimbursement from any other source for the identical loss, and indemnification or reimbursement from any other source shall preclude compensation pursuant to this article.

(b) If a claimant recovers any compensation from a party in a civil or administrative action for a loss for which the claimant has received compensation pursuant to this article, the claimant shall reimburse the state account in an amount equal to the compensation which the claimant has received from the state account pursuant to this article. The Attorney General may bring an action against the claimant to recover the amount which the claimant is required to reimburse the state account, and until the account is reimbursed, the state shall have a lien of first priority on the judgment or award recovered by the claimant. If the state account is reimbursed pursuant to this subdivision, the state shall not acquire, by subrogation, the claimant's rights pursuant to Section 25380.

(c) The Legislature hereby finds and declares that it is the purpose of this section to prevent double recovery for a loss compensable pursuant to this article.

SEC. 6. Section 25379 of the Health and Safety Code is repealed.

SEC. 7. Section 25379 is added to the Health and Safety Code, to read:

25379. (a) The following evidence is not admissible as evidence in any civil or criminal proceeding, including a subrogation action by the state pursuant to Section 25380, to establish the liability of any person for any damages alleged to have been caused by a release of a hazardous substance:

(1) A final decision made by the board pursuant to this article.

(2) A decision made by the board to admit or not admit any evidence.

(3) Any finding of fact or conclusion of law entered by the board in a proceeding for a claim pursuant to this article.

(4) The fact that any person has done any of the following in a proceeding for a claim pursuant to Section 25372:

(A) Chosen to participate or appear.

(B) Chosen not to participate or appear.

(C) Failed to appear.

(D) Settled or offered to settle the claim.

(b) Subdivision (a) does not apply to any civil action or writ by a claimant against the board for any act, decision, or failure to act on a claim submitted by the claimant.

SEC. 8. Section 25381 of the Health and Safety Code is amended to read:

25381. On or before July 1, 1985, the board shall, in consultation with the department, adopt, and revise when appropriate, all rules and regulations necessary to implement this article, including methods that provide for establishing that a claimant has exercised reasonable diligence in satisfying the conditions specified in Sections 25372, 25373, 25375, and 25375.5, and regulations that specify the proof necessary to establish a loss compensable pursuant to this article.

(a) Claims approved by the board pursuant to this article shall be paid from the state account.

(b) The Legislature may appropriate up to two million dollars ($2,000,000) annually from the state account to be used by the board for the payment of awards pursuant to this article.

(c) Claims against or presented to the board shall not be paid in excess of the amount of money appropriated for this purpose from the state account. These claims shall be paid only when additional money is collected, appropriated, or otherwise added to that account.

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

In order to aid victims of toxic chemical exposure who are currently suffering medical conditions resulting from their exposure, it is necessary that this act take effect immediately.

CHAPTER 105

An act to add and repeal Section 15977 of the Public Utilities Code, relating to public utility districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 26, 1985. Filed with Secretary of State June 26, 1985.]

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

SECTION 1. Section 15977 is added to the Public Utilities Code, to read:

15977. (a) Notwithstanding any other provision of this division, the board of directors of any district formed within the County of Trinity after the effective date of this section shall, after approval of the local agency formation commission, consist of five members elected from territorial units within the district as nearly equal in population as practicable. Every director shall be a resident and qualified elector of the territorial unit from which he or she is elected.

(b) The candidates for director of a district formed pursuant to subdivision (a) may be placed upon the same ballot and elected as part of the formation election held pursuant to Article 3 (commencing with Section 15761) of Chapter 2. The candidates for director shall be nominated in accordance with Section 15966.

(c) If a district is not formed within the County of Trinity on or before January 1, 1987, this section, as of that date, is repealed, unless a later enacted statute, which is enacted before January 1, 1987, deletes or extends that date.

SEC. 2. The Legislature finds and declares that Section 15977 of the Public Utilities Code is necessary since special facts and circumstances applicable only to the County of Trinity and not generally applicable in other counties make the accomplishment of this purpose impossible by any general law. The territory of the county is large in relation to a relatively small population which is concentrated in two areas within the county, each of which areas presents special and unique problems with respect to the utility services proposed to be furnished by the contemplated public utility district. The Legislature further finds and declares that the purpose of this act is impossible to accomplish by any general law within the meaning of Section 16 of Article IV of the California Constitution, and that special legislation applicable only to the County of Trinity is therefore necessary.

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

Pursuant to Public Law 83-386 (69 Stats. 872) preference customers in Trinity County are given a first preference to the extent of 25 percent of the additional energy available from the Central Valley Project power system as a result of construction of plants authorized by P. L. 84-386. Those preference customers must be ready, able, and willing to enter into contracts for the energy and must exercise their option on specified dates every five years. Unless

this act is enacted to take effect immediately in order to permit an election for the formation of a public utility district or districts and the election of five directors from territorial units for each district heretofore described to be placed on the same ballot and elected as part of the formation election, residents in certain areas of Trinity County will not be able to be served by an operating preference customer in Trinity County and may not be able to qualify for Central Valley Project power for another five years, and it is therefore necessary that this act take effect immediately.

CHAPTER 106

An act to amend Sections 151, 2652, 4160, 4521, 5010, 6508, 10131.6, and 10131.7 of, and to amend and renumber the heading of Article 5 (commencing with Section 4140) of Chapter 9 of Division 2 of, the Business and Professions Code, to amend Section 4513 of the Civil Code, to amend Section 1710.15 of the Code of Civil Procedure, to amend Section 15712 of the Corporations Code, to amend Sections 14240, 35145, 39362, 42238.8, 44252, 56722, 66903.7, 89048, 89303, 89410, 90002, 90010, 90036, 90087, 90403, and 90440 of, to amend the heading of Article 2 (commencing with Section 90010) of Chapter 8 of Part 55 of, and to repeal the heading of Article 4 (commencing with Section 14070) of Chapter 1 of Part 9 of, and Section 54004 of, the Education Code, to amend Section 451 of the Evidence Code, to amend Sections 250, 1925, 8665, and 13100 of, and to amend and renumber Sections 7660 and 7661 of, the Fish and Game Code, to amend Section 58503.4 of, to amend and renumber the heading of Article 6 (commencing with Section 520) of Chapter 3 of Part 1 of Division 1 of, and Section 4141 of, to amend the heading of Chapter 5 (commencing with Section 4501) of Part 4 of Division 3 of, and to repeal the heading of Article 2.5 (commencing with Section 4141) of Chapter 6 of Part 3 of Division 2 of, the Food and Agricultural Code, to amend Sections 8295, 9359.8, 11041, 11263, 15606, 25210.4a, 26205.1, 35011, 35045, 35047, 35158, 35159, 35161, 37110.5, 37396, 37658, 37659, 39587, 40582, 51284, 51286, 68090.3, 72645, 72706, and 92100 of, to amend and renumber Sections 6254.1, 12804.5, 14770, 15335, 17313, and 19140 of, and repeal Section 16368 of, the Government Code, to amend Section 1150 of the Harbors and Navigation Code, to amend Sections 432.4, 436.52, 1397, 1447, 1580, 18959, 25242, 28479, and 28801 of, to amend and renumber Sections 1339.50, 1597.98, 24342.3, 25342.1, and 25342.2 of, and to repeal Section 1172.5 of, the Health and Safety Code, to amend Sections 383.5, 779.21, 882.5, 1370, 10191, 10270.94, 10291.5, 10293, 10507.4, 12389, 12752, 12763, and 12923 of, and to amend and renumber Sections 11512.3 and 11513 of, the Insurance Code, to amend Sections 115, 600, 1205, 11105.5, 12076, 12306, and 13505 of the Penal Code, to repeal Sections 21005 and 21167.8 of the Public Resources Code, to amend Sections 140003 and 140256.7 of,

and to repeal Section 1039 of, the Public Utilities Code, to amend Sections 75.72, 17046, 17052.8, 17274, 17281, 17504, 17635, 18033, 18162.5, 18244, 18586, 18654, 18802.5, 18819, 19062.11, 19085, 20645.7, 24354.2, 24359.1, 24414, 24521, 24562, and 24918 of, to amend and renumber Sections 480.4, 6471.5, 6472.5, and 6474.5 of, and to repeal Sections 6471, 6472, 6474, and 19051.1 of, the Revenue and Taxation Code, to amend Sections 134, 213, 1732, 2007, 2110, 3012, and 19303 of, and to repeal the heading of Chapter 3 (commencing with Section 6780) of Part 6 of Division 7 of, and the heading of Chapter 6 (commencing with Section 22675) of Part 2 of Division 15 of, the Streets and Highways Code, to amend Sections 5310, 9004, 10201, 10206, and 15050 of the Unemployment Insurance Code, to amend Sections 320, 34024, and 35555 of, and to add Sections 1670 and 1671 to, the Vehicle Code, to amend the heading of Article 2 (commencing with Section 71630) of Chapter 2 of Part 5 of Division 20 of the Water Code, to amend Sections 3154, 3156, 3303, 3305, and 4017 of, and to repeal Section 652.5 of, the Welfare and Institutions Code, and to repeal Section 3 of Chapter 757 of the Statutes of 1978, relating to the maintenance of the codes.

[Approved by Governor June 26, 1985 Filed with Secretary of State June 26, 1985.]

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

SECTION 1. Section 151 of the Business and Professions Code is amended to read:

151. The director is appointed by the Governor and holds office at the Governor's pleasure. The director shall receive the annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code, and his or her necessary traveling expenses.

SEC. 2. Section 2652 of the Business and Professions Code is amended to read:

2652. All schools, whether situated in this state or not, furnishing courses of study meeting the minimum standard required by Sections 2650 and 2651 and the rules of the examining committee adopted pursuant to this chapter shall be approved by the examining committee and shall be entitled to compel this approval, if it is denied, by action in the Superior Court of the State of California, the procedure and power of the court in which action shall be the same as provided in Section 2087.

SEC. 3. The heading of Article 5 (commencing with Section 4140) of Chapter 9 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 5.5. Hypodermics

SEC. 4. Section 4160 of the Business and Professions Code is amended to read:

4160. (a) The California Hazardous Substances Act, Chapter 13 (commencing with Section 28740) of Division 21 of the Health and Safety Code, applies to pharmacies and pharmacists and any other person or place subject to the jurisdiction of the board.

(b) The board may enforce that act when necessary for the protection of the health and safety of the public if prior regulatory notice is given in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code, as amended). Board enforcement shall focus on those hazardous substances which relate significantly to or overlap the practice of pharmacy.

(c) "Poison," as used elsewhere in this chapter, shall reference a category of hazardous substances defined in Section 28743 of the Health and Safety Code which the board may by regulation make more specific.

SEC. 5. Section 4521 of the Business and Professions Code is amended to read:

4521. The board may suspend or revoke a license issued under this chapter for any of the following reasons:

(a) Unprofessional conduct, which includes but is not limited to any of the following:

(1) Incompetence or gross negligence in carrying out usual psychiatric technician functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000) of Division 2, the record of conviction being conclusive evidence thereof.

(3) The use of advertising relating to psychiatric technician services which violates Section 17500.

(4) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of this code.

(5) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of this code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(6) Be convicted of a criminal offense involving the falsification of records concerning prescription, possession, or consumption of any of the substances described in paragraphs (4) and (5), in which event the record of the conviction is conclusive evidence of the conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

(7) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in paragraphs (4) and (5), in which event the court order of commitment or confinement is prima facie evidence of the commitment or confinement.

(8) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in paragraph (4).

(b) Procuring a certificate or license by fraud, misrepresentation, or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or terms of this chapter.

(e) Giving any false statement or information in connection with an application.

(f) Conviction of any offense substantially related to the qualifications, functions, and duties of a psychiatric technician, in which event the record of the conviction shall be conclusive evidence of such conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required by this chapter.

(h) Impersonating another practitioner, or permitting another person to use his or her certificate or license.

(i) The use of excessive force upon or the mistreatment or abuse of any patient.

(j) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 12 (commencing with Section 2220) of Chapter 5 of Division 2.

SEC. 6. Section 5010 of the Business and Professions Code is amended to read:

5010. The board may adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the orderly conduct of its affairs and for the administration of this chapter. The regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 7. Section 6508 of the Business and Professions Code is amended to read:

6508. The board may make rules and regulations and also prescribe sanitary requirements in aid or furtherance of this chapter in addition to those prescribed by law.

The practice and procedure of the board with respect to adopting rules and regulations shall be in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 8. Section 10131.6 of the Business and Professions Code is amended to read:

10131.6. (a) Notwithstanding any other provision of law, a person licensed as a real estate broker may sell or offer to sell, buy or offer to buy, solicit prospective purchasers of, solicit or obtain listings of, or negotiate the purchase, sale, or exchange of any mobilehome only if the mobilehome has been registered under Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code for at least one year.

(b) No real estate broker who engages in the activities authorized by this section shall maintain any place of business where two or more mobilehomes are displayed and offered for sale by the person, unless the broker is also licensed as a mobilehome dealer as provided for by Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code.

(c) As used in this chapter, "mobilehome" means a structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or without a foundation system. "Mobilehome" does not include a recreational vehicle, as defined in Section 18010 of the Health and Safety Code, a commercial coach, as defined in Section 18001.8 of the Health and Safety Code, or factory-built housing, as defined in Section 19971 of the Health and Safety Code.

(d) In order to carry out the provisions of this section, the commissioner shall prescribe by regulation, after consultation with the Department of Housing and Community Development, methods and procedures to assure compliance with requirements of the Health and Safety Code pertaining to mobilehome registration, collection of sales and use taxes, and transaction documentation.

SEC. 9. Section 10131.7 of the Business and Professions Code is amended to read:

10131.7. It is unlawful for any real estate licensee acting under authority of Section 10131.6 to do any of the following:

(a) To advertise or offer for sale in any manner any mobilehome, unless it is either in place on a lot rented or leased for human habitation within an established mobilehome park as defined in Section 18214 of the Health and Safety Code and the advertising or offering for sale is not contrary to any terms of a contract between the seller of the mobilehome and the owner of the mobilehome park, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized or its continued presence and that use would be authorized for a total and

uninterrupted period of at least one year.

(b) To fail to withdraw any advertisement of a mobilehome for sale, lease, or exchange within 48 hours after the real estate licensee's receipt of notice that the mobilehome is no longer available for sale, lease, or exchange.

(c) To advertise or represent a mobilehome as a new mobilehome.

(d) To include as an added cost to the selling price of a mobilehome, an amount for licensing, as prescribed by Section 10751 of the Revenue and Taxation Code, except where the buyer and seller agree to the proration of the license fees for the applicable license period, or transfer of title of the mobilehome as a vehicle, which amount is not due to the state unless, prior to the sale, the amount has been paid by the licensee to the state in order to avoid penalties that would have accrued because of late payment of the fees.

(e) To make any representation that a mobilehome is capable of being transported on California highways if the mobilehome does not meet all of the equipment requirements applicable to mobilehomes of Division 12 (commencing with Section 24000) of the Vehicle Code, or to fail to disclose any material fact respecting those equipment requirements.

(f) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on the real estate licensee's behalf or at the real estate licensee's place of business, that no downpayment is required in connection with the sale of a mobilehome when downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the mobilehome.

(g) To fail or neglect properly to cause the endorsement, dating, and delivery (or fail to endorse, date, and deliver) of the certificate of ownership or certificate of title of the mobilehome, and, when having possession, to fail to deliver the registration card to a transferee who is lawfully entitled to a transfer of registration. Except when the certificate of ownership or certificate of title is demanded in writing by a purchaser, the licensee shall satisfy the delivery requirement of this subdivision by submitting appropriate documents and fees to the Department of Housing and Community Development for transfer of registration in accordance with Chapter 8 (commencing with Section 18075) of Part 2 of Division 13 of the Health and Safety Code and rules and regulations promulgated thereunder.

SEC. 10. Section 4513 of the Civil Code is amended to read:

4513. In cases in which the court has determined that a decree of dissolution ought to be granted, but by mistake, negligence, or inadvertence, the judgment has not been signed, filed, and entered, the court may cause the judgment to be signed, dated, filed, and entered therein as of the date when it could have been signed, dated, filed, and entered originally , if it appears to the satisfaction of the

court that no appeal is to be taken in the action or motion made for a new trial, to annul or set aside the judgment or for relief under Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure. This action may be taken by the court on its own motion or upon the motion of either party thereto. In contested cases, the motion of a party shall be with notice to the other party. The court may cause the judgment to be entered nunc pro tunc as aforesaid, even though the judgment may have been previously entered, where through mistake, negligence, or inadvertence the judgment was not entered as soon as it could have been entered under the law if applied for. Upon the entry of the judgment, the parties shall have the same rights with regard to the dissolution of marriage becoming final on the date that it would have become final, had the judgment been entered upon the date when it could have been originally entered.

SEC. 11. Section 1710.15 of the Code of Civil Procedure is amended to read:

1710.15. (a) A judgment creditor may apply for the entry of a judgment based on a sister state judgment by filing an application pursuant to Section 1710.20.

(b) The application shall be executed under oath and shall include all of the following:

(1) A statement that an action in this state on the sister state judgment is not barred by the applicable statute of limitations.

(2) A statement, based on the applicant's information and belief, that no stay of enforcement of the sister state judgment is currently in effect in the sister state.

(3) A statement of the amount remaining unpaid under the sister state judgment and, if accrued interest on the sister state judgment is to be included in the California judgment, a statement of the amount of interest accrued on the sister state judgment (computed at the rate of interest applicable to the judgment under the law of the sister state), a statement of the rate of interest applicable to the judgment under the law of the sister state, and a citation to the law of the sister state establishing the rate of interest.

(4) A statement that no action based on the sister state judgment is currently pending in any court in this state and that no judgment based on the sister state judgment has previously been entered in any proceeding in this state.

(5) Where the judgment debtor is an individual, a statement setting forth the name and last known residence address of the judgment debtor. Where the judgment debtor is a corporation, a statement of the corporation's name, place of incorporation, and whether the corporation, if foreign, has qualified to do business in this state under the provisions of Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code. Where the judgment debtor is a partnership, a statement of the name of the partnership, whether it is a foreign partnership, and, if it is a foreign partnership, whether it has filed a statement pursuant

to Section 15800 of the Corporations Code designating an agent for service of process. Except for facts which are matters of public record in this state, the statements required by this paragraph may be made on the basis of the judgment creditor's information and belief.

(6) A statement setting forth the name and address of the judgment creditor.

(c) A properly authenticated copy of the sister state judgment shall be attached to the application.

SEC. 12. Section 15712 of the Corporations Code is amended to read:

15712. (a) A limited partnership organized under the laws of this state and existing on the effective date:

(1) Shall be governed by the law previously applicable to it unless it elects to be governed by this chapter instead of by the law previously applicable to it. The election shall be made by the written consent of all partners, or of the lesser number provided by the partnership agreement for this election. The election shall be prospective only and shall not affect preexisting rights of third parties.

(2) Shall file a certificate as provided by subdivision (a) of Section 15621, including therein the date that the limited partnership filed under the law previously applicable to it, and shall thereafter be governed by Article 2 (commencing with Section 15621), and not by the law previously applicable to it relating to filing requirements.

(3) Shall not be subject to the requirement of subdivision (a) of Section 15612 or to the limitations of subdivision (c) of Section 15612 if a certificate as required by paragraph (2) of this subdivision is filed prior to July 1, 1985.

(4) May not maintain any action, suit, or proceeding in any court of this state until it has filed a certificate as required by paragraph (2).

(b) To the extent that the provisions of the certificate filed under the law previously applicable to a limited partnership governed the rights and obligations of the partners and the limited partnership among each other, those provisions shall continue to govern those rights and obligations except (i) as they may subsequently be affected by amendments to the partnership agreement or by the terms of a certificate filed pursuant to paragraph (6) of subdivision (a) of Section 15621 or by the terms of a certificate of amendment filed pursuant to subdivision (c) of Section 15622, and (ii) for the effect upon those rights and obligations of an election to be governed by this chapter pursuant to this section.

SEC. 13. The heading of Article 4 (commencing with Section 14070) of Chapter 1 of Part 9 of the Education Code is repealed.

SEC. 14. Section 14240 of the Education Code is amended to read:

14240. The county auditor may impound the disputed revenues of school district or community college district taxes, upon secured or unsecured property, levied and collected in the 1954–1955 fiscal year, and thereafter, whenever, pursuant to Chapter 5 (commencing

with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code, a claim or action is filed for the return of those revenues, or the taxes have been paid under protest. The county auditor may continue to impound the revenues until the final disposition of the claim or action. If, under the final disposition, it is determined that the taxes were properly levied against the property, the auditor shall release the revenues to the school district or community college district, and the auditor shall thereupon immediately notify, in writing, the Superintendent of Public Instruction or board of governors, as the case may be, of the release.

SEC. 15. Section 35145 of the Education Code is amended to read:

35145. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 35146 of, and subdivision (c) of Section 48918 of, this code, all meetings of the governing board of any school district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at the meetings and shall be subject to the following requirements:

(a) Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records, and shall be available to the public.

(b) An agenda shall be posted at a place where members of the public, including district employees, may view the agenda at least 48 hours prior to the time of regular meetings and at least 24 hours prior to special meetings. This agenda shall include, but is not limited to, items on which the governing board may take action at that meeting.

SEC. 16. Section 39362 of the Education Code is amended to read:

39362. The sale may be made for cash, or for part cash and upon such terms of deferred payments as are determined by the action of the governing board and which are secured by purchase money, mortgage, deed of trust, an irrevocable letter of credit issued by a state or federally chartered financial institution, or any other form of security which is acceptable to the governing board.

This section may be applied to sales made before the effective date of the amendments to this section made by the Statutes of 1982, with the consent of the parties to the sale.

SEC. 17. Section 42238.8 of the Education Code is amended to read:

42238.8. (a) In the 1984–85, 1985–86, and 1986–87 fiscal years, any school district which offers at least the amounts of instructional time specified in Section 46201 for the applicable fiscal year shall increase the amount computed pursuant to Section 42238 in that fiscal year by the product of the amount computed for the school district pursuant to Section 46201 in that fiscal year.

(b) This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1987, deletes or extends that date.

SEC. 18. Section 44252 of the Education Code is amended to read:

44252. (a) The commission shall establish standards and procedures for the initial issuance and renewal of credentials.

(b) Commencing on February 1, 1983, the Commission on Teacher Credentialing shall not issue initially any credential, permit, certificate, or renewal of an emergency credential to any person to serve in the public schools unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills in the English language as provided in Section 44252.5. However, an emergency credential holder who has passed the basic skills proficiency test shall not be required to repeat the test in order to obtain a renewal of his or her emergency credential. The commission shall exempt from the basic skills proficiency test requirement any of the following persons:

(1) A person credentialed solely for the purpose of teaching adults in an apprenticeship program.

(2) An applicant for an adult education designated subject credential for other than an academic subject.

(3) A person credentialed in another state who is an applicant for employment in a school district in this state who has passed a basic skills proficiency examination which has been developed and administered by the school district offering that person employment. School districts administering a basic skills proficiency examination under this paragraph shall comply with the requirements of subdivision (m) of Section 44830. Such an applicant shall be granted a nonrenewable emergency credential, valid for not longer than one year, pending fulfillment of the basic skills proficiency requirement pursuant to Section 44252.5. The commission shall report to the Legislature no later than January 1, 1984, on the number of teachers receiving emergency credentials without fulfilling the basic skills proficiency requirement, the districts in which these teachers are employed, the number of teachers granted clear credentials after the expiration of an emergency credential granted under these conditions, and a comparison of success rate of these teachers on the basic skills test with the success rate of the general pool of credential applicants.

(4) An applicant for a child care center permit or a permit authorizing service in a development center for the handicapped, so long as the holder of the permit is not required to have a baccalaureate degree.

(5) The holder of a credential, permit, or certificate to teach, other than an emergency credential, who seeks an additional authorization to teach.

(6) An applicant for a credential to provide service in the health profession.

(c) By December 31, 1982, the Superintendent of Public Instruction shall adopt an appropriate state test to measure proficiency in these basic skills. In adopting the test, the superintendent shall seek assistance from the commission and an advisory board. A majority of the members of the advisory board shall be classroom teachers. The board shall also include representatives of local school boards, school administrators, parents,

and postsecondary institutions.

The superintendent shall adopt any normed test that the superintendent determines will sufficiently test basic skills for purposes of this section.

The superintendent, in conjunction with the commission and approved teacher training institutions, shall take steps necessary to insure the effective implementation of this provision.

(d) Nothing in this section shall be construed as requiring the holders of, or applicants for, a vocational designated subject credential to pass the state basic skills proficiency test. The governing board of each school district, or each governing board of a consortium of school districts, or each governing board involved in a joint powers agreement, which employs a holder of a vocational designated subject credential shall establish its own basic skills proficiency criteria for the holders of these credentials and shall arrange for those individuals to be assessed. The basic skills proficiency criteria established by the governing board shall be at least equivalent to the test required by the district, or in the case of a consortium or a joint powers agreement, by any of the participating districts, for graduation from high school. The governing board or boards may charge a fee to individuals being tested to cover the costs of the test, including the costs of developing, administering, and grading the test.

(e) The commission shall compile data regarding the rate of passing the state basic skills proficiency test by persons who have been trained in various institutions of higher education. The data shall be available to members of the public, including to persons who intend to enroll in teacher education programs.

SEC. 19. Section 54004 of the Education Code is repealed.

SEC. 20. Section 56722 of the Education Code is amended to read:

56722. For each district or county office, the county superintendent shall compute an instructional personnel cost unit rate based on the 1979–80 costs submitted pursuant to Section 56721 for each of the following instructional personnel services:

(a) Special classes and centers with one special class teacher, using the amount computed pursuant to subdivision (a) of Section 56721.

(b) Special classes and centers for the severely handicapped, as defined in Section 56030.5, with one special class teacher and one instructional aide, using the amounts computed pursuant to subdivisions (a) and (d) of Section 56721.

(c) Special classes and centers for the severely handicapped, as defined in Section 56030.5, with one special class teacher and two instructional aides, using the amounts computed pursuant to subdivisions (a) and (d) of Section 56721.

(d) Resource specialist programs with one resource specialist only, using the amount computed pursuant to subdivision (b) of Section 56721.

(e) Resource specialist programs with one resource specialist and one instructional aide, using the amounts computed pursuant to

subdivision (b) of Section 56721 and 85 percent of the amount computed to subdivision (d) of Section 56721.

(f) Certificated specialists providing designated instruction and services, using the amount computed pursuant to subdivision (c) of Section 56721. For the purpose of this subdivision, aides providing designated instruction and services may be funded in lieu of a certificated specialist.

(g) Special classes and centers for other than the severely handicapped with one special class teacher and one instructional aide using the amount computed pursuant to subdivision (a) and 85 percent of the amount computed pursuant to subdivision (d) of Section 56721.

(h) Special classes and centers for other than the severely handicapped with one special class teacher and two instructional aides using the amount computed pursuant to subdivision (a) and 85 percent of the amount computed pursuant to subdivision (d) of Section 56721.

SEC. 21. Section 66903.7 of the Education Code is amended to read:

66903.7. (a) There is hereby established the Commission for the Review of the Master Plan for Higher Education, to be comprised of 16 members who shall be citizens knowledgeable in the area of postsecondary education, business, and community leaders representative of the cultural, ethnic, and geographic diversity of the state. Members of the Commission for the Review of the Master Plan for Higher Education shall be appointed as follows:

(1) One representative appointed by the Regents of the University of California.

(2) One representative appointed by the Trustees of the California State University.

(3) One representative appointed by the Board of Governors of the California Community Colleges.

(4) One representative appointed from among the membership of the California Postsecondary Education Commission.

(5) The Superintendent of Public Instruction, or his or her designee.

(6) Four representatives appointed by the Governor.

(7) Three representatives appointed by the Speaker of the Assembly.

(8) Three representatives appointed by the Senate Rules Committee.

(9) One representative appointed by the Association of Independent California Colleges and Universities.

The Governor may designate any one of the 16 members appointed to the commission pursuant to this subdivision to serve as chairperson of the commission.

(b) No person who is employed or retained by any public or private postsecondary educational institution shall be appointed to or serve on the commission. Representatives to the commission shall

receive reimbursement for actual and necessary travel expenses incurred while conducting the business of the commission.

(c) The duties of the Commission for the Review of the Master Plan for Higher Education shall include, but need not be limited to, the review of relevant reports by the California Postsecondary Education Commission, the University of California, the California State University, the Board of Governors of the California Community Colleges, the Department of Finance, the Legislative Analyst, or any other reports the commission deems appropriate.

The commission shall select and designate a state administrative agency to carry out the personnel, contractual, and all other fiscal services required by the commission.

In addition, the commission shall, at a minimum, report on all of the following to the Joint Legislative Committee on the Review of the Master Plan established pursuant to Assembly Concurrent Resolution 162 of the 1983–84 Regular Session:

(1) California's postsecondary educational needs through the year 2000, with emphasis on the demography of student, societal, and employment needs in the next decade versus the projected supply of postsecondary education faculty.

(2) Basic and lower division instruction at the various postsecondary institutions, with an initial emphasis on the mission and function of the California Community Colleges, as specified in Senate Bill 2064 of the 1983–84 Regular Session.

(3) Strategies to promote an increase in the access and success of students, particularly those underrepresented in postsecondary education, including adult education through graduate instruction, in the following areas:

(A) Preparation and outreach: basic skills and college preparation in kindergarten through grade 12, and community college curriculum.

(B) Matriculation: admission, assessment, and advisement.

(C) Retention: remediation, academic support, and financial assistance.

(D) Articulation: transition from secondary education to postsecondary education and employment.

(E) Accountability: assurance that courses offered are consistent with the mission of various segments of postsecondary education.

(4) The appropriateness of existing educational delivery systems and their ability to serve present and future student populations.

(5) Analysis of direct and indirect expenditures for students attending California postsecondary institutions, including student financial assistance and instructional support, as to the efficient use of state resources.

The commission shall conduct public hearings designed to solicit testimony of private citizens, public interest groups, alumni organizations, or any other interested private groups and organizations, as well as professors, administrators, students, and others who are directly affected by that master plan, for the purpose

of soliciting the input of these groups in the formulation of the commission's recommendations regarding the master plan.

The commission shall formulate and submit recommendations regarding the policies and content of the master plan, in addition to recommendations regarding the goals, programs, functions, funding, and interrelationships of the Master Plan for Higher Education.

(d) The commission shall develop and submit a management plan identifying the commission's specific objectives and output for review by the Joint Legislative Committee for the Review of the Master Plan for Higher Education by March 1, 1985. The management plan shall also include resource and staffing requirements and specific dates for the completion of interim and final reports to the Joint Committee.

(e) Not later than January 1, 1987, the Commission for the Review of the Master Plan for Higher Education shall submit a report to the Legislature and the Governor relative to its findings and recommendations regarding the master plan and the functions and interrelationships of public postsecondary education institutions.

(f) It is the intent of the Legislature that any agency receiving public funds for postsecondary education shall, upon request by the commission, provide all necessary information or assistance required by the commission.

(g) This section shall become inoperative on June 30, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 22. Section 89048 of the Education Code is amended to read:

89048. Notwithstanding Article 1 (commencing with Section 11000) of Chapter 1 of Part 1, Article 2 (commencing with Section 14660) of Chapter 2 of Part 5.5, and Part 11 (commencing with Section 15850), of Division 3 of Title 2 of the Government Code, or any other provision of law to the contrary, the trustees may perform the following functions, without prior approval of any other state department or agency, when necessary to carry out the purposes of the California State University:

(a) Acquire easements or rights-of-way necessary for the proper utilization of real property of the California State University.

(b) Grant and convey in the name of the California State University easements and rights-of-way across property belonging to the California State University subject to the conditions, limitations, restrictions, and reservations the trustees determine are in the best interests of the California State University.

(c) Quitclaim the right, title, and interest of the California State University in and to easements and rights-of-way owned by the California State University which the trustees determine are no longer needed for California State University purposes.

(d) Sell or exchange any personal property belonging to the California State University if the trustees determine that the sale or exchange is in the best interests of the California State University.

(e) Transactions under this subdivision shall be for consideration based on fair market values.

(f) 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. 23. Section 89303 of the Education Code is amended to read:

89303. The trustees may provide for the construction of a building to serve as a student body center to be financed entirely or in part by fees required of students as authorized in Section 89304 pursuant to the provisions of the State University Revenue Bond Act of 1947.

SEC. 24. Section 89410 of the Education Code is amended to read:

89410. The San Francisco State University may maintain a child care center as an integral part of the state university. The center shall be used for observation, demonstration, study, student experience, and student teaching.

SEC. 25. Section 90002 of the Education Code is amended to read:

90002. All student housing and any other related facilities operated by the College Auxiliary Enterprise Fund are hereby designated a "project" under the State University Revenue Bond Act of 1947 and subject to the provisions of that act. All assets, liabilities, and fund balances of the College Auxiliary Enterprise Fund are hereby transferred from that fund to a separate account to be established by the trustees within the California State University Dormitory Revenue Fund.

SEC. 26. The heading of Article 2 (commencing with Section 90010) of Chapter 8 of Part 55 of the Education Code is amended to read:

Article 2. The State University Revenue Bond Act of 1947

SEC. 27. Section 90010 of the Education Code is amended to read:

90010. This article may be cited as "The State University Revenue Bond Act of 1947."

SEC. 28. Section 90036 of the Education Code is amended to read:

90036. The State Treasurer shall act as trustee for the board and the holders of bonds issued hereunder, and the board may authorize the trustee to act on behalf of the holders of the bonds, or any stated percentage thereof, and to exercise and prosecute on behalf of the holders of the bonds such rights and remedies as may be available to the holders. The board may provide in the indenture for the deposit of all revenues received from the project with the trustee to be held in a separate account in the California State University Dormitory Revenue Fund created by this article. The money in the fund shall be disbursed only as provided in the indenture.

SEC. 29. Section 90087 of the Education Code is amended to read:

90087. (a) There is in the State Treasury the Affordable Student Housing Revolving Fund. Notwithstanding Section 13340 of the

Government Code, the money in the fund is hereby continuously appropriated for the purposes of this article.

(b) Moneys in the fund shall be available for use by the trustees, as they deem necessary, in combination with the proceeds of bonds issued pursuant to the State University Revenue Bond Act of 1947 (Article 2 (commencing with Section 90010)) to ensure that the housing projects constructed will be affordable to students. Moneys in the fund shall be used in connection with newly constructed student housing projects in accordance with the priorities adopted by the trustees pursuant to Section 90089.

(c) Any funds received from the Affordable Student Housing Revolving Fund for use as authorized in this article shall be repaid from user fees over a 40-year period, with interest at a rate not to exceed two-thirds of the most current investment rate of the Pooled Money Investment Account as of the date of disbursement of funds from the Affordable Student Housing Revolving Fund.

SEC. 30. Section 90403 of the Education Code is amended to read:

90403. Other sections to the contrary notwithstanding, tuition fees adequate to meet the cost of maintaining limited residence programs which are established by the trustees in the area of military installations and which are designed primarily for the benefit of military and nonmilitary personnel at the installations, shall be required of, and collected from resident and nonresident students enrolled in the programs, under and pursuant to rules and regulations prescribed by the trustees. Students whose enrollment is entirely in those programs shall not be required to pay nonresident tuition established pursuant to Section 89705.

The trustees shall not establish a limited residence program in the area of a military installation which is designed primarily for the benefit of military and nonmilitary personnel at the installation without the prior approval of the California Postsecondary Education Commission.

The state shall not provide capital outlay expenditures for any limited residence program in the area of a military installation which is designed primarily for the benefit of military and nonmilitary personnel at the installation.

This section applies only to classes provided by California Polytechnic State University at Vandenberg Air Force Base.

If any provision of this section or the application thereof to any person or circumstances is held invalid, the 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.

SEC. 31. Section 90440 of the Education Code is amended to read:

90440. Notwithstanding any other provision of law, the trustees may rent, lease, sell, or trade the property belonging to the state and used for the San Francisco State University Downtown Center, located at 540 Powell Street, San Francisco, California. All proceeds derived from the renting, leasing, sale, or trade shall be used for the

acquisition, construction, improvement, or leasing of a downtown center for the San Francisco State University.

SEC. 32. Section 451 of the Evidence Code is amended to read:

451. Judicial notice shall be taken of the following:

(a) The decisional, constitutional, and public statutory law of this state and of the United States and the provisions of any charter described in Section 3, 4, or 5 of Article XI of the California Constitution.

(b) Any matter made a subject of judicial notice by Section 11343.8, 11344.6, or 18576 of the Government Code or by Section 1507 of Title 44 of the United States Code.

(c) Rules of professional conduct for members of the bar adopted pursuant to Section 6076 of the Business and Professions Code and rules of practice and procedure for the courts of this state adopted by the Judicial Council.

(d) Rules of pleading, practice, and procedure prescribed by the United States Supreme Court, such as the Rules of the United States Supreme Court, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Admiralty Rules, the Rules of the Court of Claims, the Rules of the Customs Court, and the General Orders and Forms in Bankruptcy.

(e) The true signification of all English words and phrases and of all legal expressions.

(f) Facts and propositions of generalized knowledge that are so universally known that they cannot reasonably be the subject of dispute.

SEC. 33. Section 250 of the Fish and Game Code is amended to read:

250. If Article 1 (commencing with Section 200) ceases to be effective, all regulations adopted pursuant to that article which are in effect on the day of final adjournment of the regular session of the Legislature in the year in which the article ceases to have effect are continued as statutory enactments and shall have the same force and effect as if enacted by the Legislature. Whenever, in any such regulation of the commission continued under this section, a period of time is designated with reference to a particular year, that period of time is applicable on a continuing basis in each succeeding year. All regulations of the commission, insofar as practicable, shall be phrased in general terms to facilitate the operation of this section.

SEC. 34. Section 1925 of the Fish and Game Code is amended to read:

1925. The department shall enforce the provisions of the California Desert Native Plants Act Division 23 (commencing with Section 80001) of the Food and Agricultural Code except that permits, tags, seals, and wood receipts shall be issued pursuant to Chapter 4 (commencing with Section 80101) of Division 23 of the Food and Agricultural Code, by the county agricultural commissioner or the sheriff. Nothing in the California Desert Native Plants Act, or any other law, prohibits the department from taking,

for scientific or propagation purposes, any species of native plants. The department may import, propagate, and distribute native plants, and the California Desert Native Plants Act does not apply to those activities.

SEC. 35. Section 7660 of the Fish and Game Code, as added by Chapter 1323 of the Statutes of 1984, is amended and renumbered to read:

7654. The Legislature finds and declares:

(a) That the actions taken by the federal Pacific Fishery Management Council have resulted in significant economic losses to California's salmon and groundfish fisheries, have caused significant waste of fish, and have failed to manage and conserve fisheries for their optimum yield.

(b) That the California Salmon Fishery has been severely affected by regulations imposed by the Pacific Fishery Management Council and the federal Department of Commerce.

(c) That the membership of the Pacific Fishery Management Council has never included a commercial salmon troll fisherman and has at times lacked balance and representation from major fisheries subject to the fishery management plans of the council.

SEC. 36. Section 7661 of the Fish and Game Code, as added by Chapter 1323 of the Statutes of 1984, is amended and renumbered to read:

7655. (a) It is the policy of the State of California that the state be represented on the Pacific Fishery Management Council by representatives of those fisheries directly subject to the fishery management plans of the council. Special emphasis shall be made on the nominations and appointments to the Pacific Fishery Management Council for a California commercial salmon troll fisherman. In addition to a commercial salmon troll fisherman, in order to assure a balanced representation on the Pacific Fishery Management Council, nominations shall also include representatives from the seafood processing industry, the commercial passenger carrying fishing industry, the groundfish fishery, and the anchovy fishery.

(b) When the Governor nominates persons for any seat on the Pacific Fishery Management Council, those individuals shall be knowledgeable of California's fishery resources and its fishing industry and needs. Further, the nominations shall be made after consultation with fishery organizations whose members are directly affected by the actions of the Pacific Fishery Management Council.

SEC. 37. Section 8665 of the Fish and Game Code is amended to read:

8665. In District 118.5, nets may not be used within 750 feet of any pier or dock, except for bait nets described in Section 8780 used to capture live bait and lobster traps authorized for use pursuant to Section 9010.

SEC. 38. Section 13100 of the Fish and Game Code is amended to read:

13100. The amounts paid to and retained in the county treasury pursuant to Section 13003 shall be deposited in a county fish and game propagation fund and expended for the propagation and conservation of fish and game within or outside the county, under the direction of the board of supervisors. The board of supervisors may also expend those funds for educational and youth activities relating to fish and game. These funds shall not be expended for the protection or preservation of domestic livestock or poultry or for predator control unless the action is undertaken to benefit wildlife.

SEC. 39. The heading of Article 6 (commencing with Section 520) of Chapter 3 of Part 1 of Division 1 of the Food and Agricultural Code is amended and renumbered to read:

Article 7. Poultry and Livestock Diagnostic Laboratories

SEC. 40. The heading of Article 2.5 (commencing with Section 4141) of Chapter 6 of Part 3 of Division 3 of the Food and Agricultural Code is repealed.

SEC. 41. Section 4141 of the Food and Agricultural Code is amended and renumbered to read:

4058. (a) Notwithstanding Section 4052, the California Exposition and State Fair or a district agricultural association in the northern zone, with the approval of both the Department of Food and Agriculture and the Department of General Services, may utilize its racing facilities for conducting horseracing meetings, with parimutuel wagering, on days other than the days on which general fair activities are conducted. The horseracing meetings shall include a program consisting of all breeds of horses.

(b) The association shall designate certain days of a meeting held pursuant to this section as charity days with the proceeds therefrom to be distributed in accordance with Sections 19550 and 19556 of the Business and Professions Code.

(c) The association shall encourage the racing of the emerging breeds of horses.

SEC. 42. The heading of Chapter 5 (commencing with Section 4501) of Part 4 of Division 3 of the Food and Agricultural Code is amended to read:

CHAPTER 5. DEPARTMENT OF FOOD AND AGRICULTURE SUPERVISION

SEC. 43. Section 58503.4 of the Food and Agricultural Code is amended to read:

58503.4. Programs operated in accordance with this chapter shall complement, and not in any way lessen, assistance to families and individuals pursuant to the Food Stamp Act of 1977 (Chapter 51 (commencing with Section 2011) of Title 7 of the United States Code).

SEC. 44. Section 6254.1 of the Government Code, as added by

Chapter 1126 of the Statutes of 1984, is amended and renumbered to read:

6254.2. Nothing in this chapter or other provision of law shall be construed to require the disclosure of a memorandum submitted to the legislative body of a local agency by its legal counsel pursuant to Section 54956.9 until the pending litigation has been finally adjudicated or otherwise settled. The memorandum shall be protected by the attorney work-product privilege until the pending litigation has been finally adjudicated or otherwise settled.

SEC. 45. Section 8295 of the Government Code is amended to read:

8295. The commission shall confer and cooperate with any legislative committee on revision of the law and may contract with any committee for the rendition of service, by either for the other, in the work of revision.

SEC. 46. Section 9359.8 of the Government Code is amended to read:

9359.8. Upon the death of any member before retirement, the member's accumulated contributions shall be paid to the member's beneficiary, if he or she has designated one, and if not, to his or her estate. There shall also be paid to his or her beneficiary or estate an amount equal to one-twelfth of the annual compensation of the office last held by the member as a legislator during the 12 months immediately preceding his or her death or that would have been applicable under Section 9359.1, whichever is greater, multiplied by the number of completed years of service and prior service for which the member is entitled to elect to receive credit. The benefits provided by this section are in addition to any benefits provided by Division 4 (commencing with Section 3201) of the Labor Code.

The benefit accorded by this section is not payable if the deceased member's spouse survives him or her and is entitled to receive an allowance for life pursuant to this chapter.

SEC. 47. Section 11041 of the Government Code is amended to read:

11041. Sections 11042 and 11043 do not apply to the Regents of the University of California, Legal Division of the Department of Public Works, Division of Labor Standards Enforcement of the Department of Industrial Relations, Workers' Compensation Appeals Board, Public Utilities Commission, State Compensation Insurance Fund, Legislative Counsel Bureau, Inheritance Tax Department, Secretary of State, State Lands Commission, Alcoholic Beverage Control Appeals Board (except when the board affirms the decision of the Department of Alcoholic Beverage Control), State Department of Education, and Treasurer with respect to bonds, nor to any other state agency which by law enacted after Chapter 213 of the Statutes of 1933 is authorized to employ legal counsel.

SEC. 48. Section 11263 of the Government Code is amended to read:

11263. As used in this article, "state agency" or "state agencies"

includes the Department of General Services and any and all organizational units, parts, and subdivisions of state agencies as defined in Section 11000.

SEC. 49. Section 12804.5 of the Government Code, as added by Chapter 399 of the Statutes of 1981, is amended and renumbered to read:

12804.7. The State and Consumer Services Agency succeeds to and is vested with all the duties, powers, purposes, and responsibilities, and jurisdiction vested in the Department of Food and Agriculture by Part 3 (commencing with Section 3801) of Division 3 of the Food and Agricultural Code with respect to the Museum of Science and Industry.

SEC. 50. Section 14770 of the Government Code, as added by Chapter 1240 of the Statutes of 1975, is amended and renumbered to read:

14669. (a) As used in this section:

(1) "Acquire" includes acquisition by gift, purchase, lease, eminent domain, or otherwise.

(2) "Public record plant" means the plant, or any part thereof, or any record therein, of any person engaged in the business of searching or publishing public records or insuring or guaranteeing titles to real property, including copies of public records and abstracts or memoranda taken from public records, which is owned by or in the possession of that person or which is used by that person in his or her business.

(b) If public records of any state agency have been lost or destroyed by conflagration or other public calamity, the director may acquire the right to reproduce such portion of a public record plant as is necessary for the purpose of restoring or replacing the records or their substance.

SEC. 51. Section 15335 of the Government Code, as added by Chapter 1639 of the Statutes of 1984, is amended and renumbered to read:

15335.5. There is within the Department of Commerce a California Film Office. The office shall prepare and implement a program to promote the production of motion pictures and still photography for the benefit of the state's economy.

The program shall do, but shall not be limited to doing, all of the following:

(a) Administer a one-stop permit office, pursuant to subdivision (c) of Section 14998.6, which shall issue permits for the use of state property for filmmaking.

(b) Implement the guidelines or regulations for a standardized permit procedure for all state agencies pursuant to guidelines adopted by the Motion Picture Council under Section 14998.4.

(c) Update and expand the location resource library.

(d) Produce and implement a marketing and promotion plan for filmmaking in California which shall be subject to the approval of the Motion Picture Council. The purpose of the plan shall be to design

a program for the preparation and distribution of appropriate promotional and informational materials pointing out desirable locations within the state for the production of motion pictures, explaining the benefits and advantages of producing motion pictures within the state government, as well as those services available at the local level and within the industry.

(e) Conduct workshops to assist local governments to adopt uniform permit procedures and to establish film development offices.

(f) Request and obtain any information from state entities necessary to carry out the purposes of this section.

(g) Accept grant moneys for the purpose of implementing this section.

(h) Accept gifts and donations for the purpose of implementing this section.

SEC. 52. Section 15606 of the Government Code is amended to read:

15606. The State Board of Equalization shall do all of the following:

(a) Prescribe rules for its own government and for the transaction of its business.

(b) Keep a record of all its proceedings.

(c) Prescribe rules and regulations to govern local boards of equalization when equalizing, and assessors when assessing, including uniform procedures for the consideration and adoption of written findings of fact by local boards of equalization as required by Section 1611.5 of the Revenue and Taxation Code.

(d) Prescribe and enforce the use of all forms for the assessment of property for taxation, including forms to be used for the application for reduction in assessment.

(e) Prepare and issue instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation. It may adapt the instructions to varying local circumstances and to differences in the character and conditions of property subject to taxation as in its judgment is necessary to attain this uniformity.

(f) Subdivisions (c), (d) and (e) shall include, but are not limited to, rules, regulations, instructions, and forms relating to classifications of kinds of property and evaluation procedures.

(g) Prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing with respect to the assessment and equalization of possessory interests.

(h) Bring an action in a court of competent jurisdiction to compel an assessor or any city or county tax official to comply with any provision of law, or any rule or regulation of the board adopted in accordance with subdivision (c), governing the assessment or taxation of property. The Attorney General shall represent the board in the action.

This section is mandatory.

SEC. 53. Section 16368 of the Government Code, as added by Chapter 1186 of the Statutes of 1981, is repealed. The repeal made by this section shall not affect the existence or validity of Section 16368 of the Government Code, as added by Chapter 899 of the Statutes of 1980.

SEC. 54. Section 17313 of the Government Code, as added by Chapter 1648 of the Statutes of 1984, is amended and renumbered to read:

17313.5. It is the intent of the Legislature that this part shall, in all respects, fall within the procedures validated by, and meet the requirements for constitutionality set forth in, the California Supreme Court cases of Riley v. Johnson, (1933), 219 Cal. 513, Riley v. Johnson, (1936), 6 Cal. 2d 529, and Flournoy v. Priest, (1971), 5 Cal. 3d 350.

SEC. 55. Section 19140 of the Government Code, as added by Chapter 1759 of the Statutes of 1984, is amended and renumbered to read:

19140.3. In addition to reinstatement required under any other section, an appointing power may, in his or her discretion, reinstate any person having probationary or permanent status who was separated from his or her position (a) by resignation, (b) by service retirement, (c) by termination from limited-term, temporary, career executive assignment, or exempt appointment, (d) under Section 19996.2, or (e) without a break in continuity of state service to accept another civil service or exempt appointment. Reinstatement shall be undertaken subject to all of the following:

(a) Subject to board rule.

(b) Within three years if the employee, at the time of separation was a member of the California Highway Patrol.

For reinstatement after separation, for members of the California Highway Patrol, the time spent (1) in a position which is exempt from civil service or (2) as a temporary employee in another governmental agency engaged in a technical cooperation program under an agreement approved by the state or (3) in a recognized military service, shall not be considered in computing the three-year period.

(c) Subject to certification regarding eligibility pursuant to Section 20983.5, if applicable.

(d) To any vacant position as follows:

(1) In the class vacated or from which separated, or,

(2) In a lower class in the same series, or,

(3) In a lower class in a related series requiring similar types of qualifications, knowledge, and abilities, or,

(4) In another class having substantially similar duties, responsibilities, and qualifications, and substantially the same salary range.

An employee separated from state service by layoff, or by resignation in lieu of layoff, may be reinstated at the discretion of the appointing power; provided, however, that the reinstatement shall

be subject to the requirements of this section and shall not be to a position that is specifically subject to the employee's reemployment list eligibility.

SEC. 56. Section 25210.4a of the Government Code is amended to read:

25210.4a. "Miscellaneous extended services," as used in this chapter, includes, but is not limited to, all of the following:

(a) Water service including the acquisition, construction, operation, replacement, maintenance, and repair of water supply and distribution systems, including land, easements, rights-of-way, and water rights.

(b) Sewer service, including the acquisition, construction, operation, replacement, maintenance and repair of sewage collection, transportation and disposal systems, including land, easements, and rights-of-way.

(c) Pest or rodent control.

(d) Street and highway sweeping.

(e) Street and highway lighting including the acquisition, construction, replacement, maintenance, and repair of a street or highway lighting system, including land, easements, and rights-of-way.

(f) Refuse collection.

(g) Garbage collection.

(h) Ambulance service.

(i) Area planning by an area planning commission established pursuant to Article 11 (commencing with Section 65600) of Chapter 3 of Title 7.

(j) Soil conservation and drainage control.

(k) Animal control.

(*l*) Services provided by a municipal advisory council established pursuant to Section 31010.

(m) Transportation services.

(n) Geologic hazard abatement on public or private property or structures where the board of supervisors determines that it is in the public interest to do so. "Geologic hazard," for purposes of this subdivision, means an actual or threatened landslide, land subsidence, soil erosion, earthquake, or any other natural or unnatural movement of land or earth.

(o) Road maintenance. Street, highway, and bridge construction, improvement, and maintenance, including related drainage facilities and structures, necessary design and engineering services, and the acquisition of land, easements, and rights-of-way needed for the work. Article 3.5 (commencing with Section 20120) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code applies to the furnishing of extended services pursuant to this subdivision.

SEC. 57. Section 26205.1 of the Government Code is amended to read:

26205.1. (a) The county officer having custody of nonjudicial public records, documents, instruments, books, and papers may

cause to be destroyed any or all of the records, documents, instruments, books, and papers if all of the following conditions exist:

(1) The board of supervisors of the county has adopted a resolution authorizing the county officer to destroy records, documents, instruments, books, and papers pursuant to this subdivision. The resolution may impose such conditions, in addition to those specified in this subdivision, as the board of supervisors determines are appropriate.

(2) The county officer who destroys any record, document, instrument, book, or paper pursuant to the authority granted by this subdivision and a resolution of the board of supervisors adopted pursuant to paragraph (1) shall maintain for the use of the public a photographic or microphotographic film, electronic recorded video production, a record contained in the county's electronic data-processing system, or other duplicate of the record, document, instrument, book, or paper destroyed.

(b) Paragraph (2) of subdivision (a) does not apply to records prepared or received other than pursuant to a state statute or county charter, or records which are not expressly required by law to be filed and preserved.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

(c) The county clerk having custody of the original or a copy of the articles of any corporation may cause the destruction of any or all the documents. "Articles" includes the articles of incorporation, amendments thereto, amended articles, restated articles, certificate of incorporation, certificates of determination of preferences, dissolution certificates, merger certificates, and agreements of consolidation or merger.

SEC. 58. Section 35011 of the Government Code is amended to read:

35011. Unless otherwise provided in this part, territory may not be annexed to a city unless it is located in the same county and is contiguous to the city at the time preliminary proceedings are initiated pursuant to Chapter 2 (commencing with Section 35100).

SEC. 59. Section 35045 of the Government Code is amended to read:

35045. "Preliminary proceedings" means proceedings which are taken by the commission pursuant to Chapter 2 (commencing with Section 35100).

SEC. 60. Section 35047 of the Government Code is amended to read:

35047. "Proceeding," "proceeding for incorporation," "proceeding for change of organization of a city," or "proceedings for municipal reorganization" means proceedings taken by the conducting authority pursuant to Chapter 3 (commencing with Section 35200).

SEC. 61. Section 35158 of the Government Code is amended to read:

35158. The resolution making determinations shall also do all of the following:

(a) Make any of the findings or determinations authorized or required pursuant to Section 35150.

(b) If applicable, assign a distinctive short-term designation to the affected territory and a description therefor.

(c) Direct the appropriate conducting authority to initiate proceedings in compliance with the resolution.

SEC. 62. Section 35159 of the Government Code is amended to read:

35159. The executive officer shall mail a certified copy of the commission's resolution making determinations to all of the following:

(a) The conducting authority.

(b) The chief petitioners, if any.

(c) Each affected city, county, and district.

SEC. 63. Section 35161 of the Government Code is amended to read:

35161. If a proposal is approved by the commission, with or without amendment, wholly, partially, or conditionally, it shall be mandatory upon the conducting authority to take the proceedings in accordance with Chapter 3 (commencing with Section 35200). The proceedings shall be initiated, conducted, and completed pursuant to those provisions which are applicable to the proposal and the territory contained in the proposal as it is approved by the commission. If the commission approves the proposal with modifications or conditions, proceedings shall be initiated, conducted, and completed in compliance with such modifications or conditions.

SEC. 64. Section 37110.5 of the Government Code is amended to read:

37110.5. The legislative body may authorize and provide for contributions to nonprofit educational radio and television stations, provided all of the following conditions exist:

(a) The purpose of the contribution is to enable the citizens of the city to enjoy greater educational and cultural advantages.

(b) A substantial number of the residents of the city live within the reception area of the station.

(c) The station regularly broadcasts programs which have educational or cultural significance.

(d) The contribution is to the general funds of the station and not for or in connection with any particular program.

(e) The contribution is not accompanied, directly or indirectly, by any direction of, sponsorship of, control of, or restriction of any program or the content of any program.

SEC. 65. Section 37396 of the Government Code is amended to read:

37396. A city, county, or city and county may lease property owned, held, or controlled by it for not to exceed 99 years, for stadium, park, recreational, fair, exposition, or exhibition purposes.

A lease made by a county pursuant to this section is subject to the provisions of Article 8 (commencing with Section 25520) of Chapter 5 of Part 2 of Division 2 of Title 3.

SEC. 66. Section 37658 of the Government Code is amended to read:

37658. The indebtedness shall be incurred and interest paid pursuant to Article 1 (commencing with Section 43600) of Chapter 4 of Division 4. The ordinance calling the bond election shall not contain any statement as to bonds to be issued. In general terms the ordinance shall describe the proposed donation, the purpose for which it is to be used, and the terms upon which it is to be made and accepted.

SEC. 67. Section 37659 of the Government Code is amended to read:

37659. The city may incur a bonded indebtedness pursuant to Article 1 (commencing with Section 43600) of Chapter 4 of Division 4, for the acquisition of real or personal property for the hospital and its construction and equipment.

The question of incurring such an indebtedness may be submitted at the election determining whether a hospital is to be established.

SEC. 68. Section 39587 of the Government Code is amended to read:

39587. The proceedings provided by this article are an alternative to any procedure established by ordinance pursuant to Article 1 (commencing with Section 39500).

SEC. 69. Section 40582 of the Government Code is amended to read:

40582. Proceedings for the issuance of the bonds shall be had, the commission shall have such powers and duties, and the bondholders shall have such rights and remedies, all in substantial accordance with, and with like legal effect, as provided in Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5. As used in that chapter, "resolution" means ordinance, the word "local agency" means authority, and "legislative body" means commission.

SEC. 69.5. Section 51284 of the Government Code is amended to read:

51284. No contract may be canceled until after the city or county has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be published pursuant to Section 6061 and shall be mailed to the Director of Conservation and every owner of land under contract, any portion of which is situated within the same agricultural preserve and within one mile of the exterior boundary of the land upon which the contract is proposed to be canceled.

SEC. 70. Section 51286 of the Government Code is amended to read:

51286. Any action or proceeding which, on the grounds of alleged noncompliance with the requirements of this chapter, seeks to attack, review, set aside, void, or annul a decision of a board of supervisors or a city council to cancel a contract shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure.

The action or proceeding shall be commenced within 180 days from the council or board order acting on a petition for cancellation filed under this chapter.

SEC. 71. Section 68090.3 of the Government Code, as added by Section 3.5 of Chapter 1249 of the Statutes of 1984, is amended to read:

68090.3. (a) Notwithstanding Section 26820.8 or 72056.5, in any county where the fee adjustment for courts for the 1983–84 biennium did not exceed 6 percent, the adjustment for the two-year period covering calendar years 1985 and 1986 may exceed 6 percent when any adjustment in excess of 6 percent for those two years reflects a law library fee increase pursuant to Section 6322.1 of the Business and Professions Code. However, the adjustment shall not exceed 10 percent for the biennium.

(b) This section shall remain in effect only until January 1, 1987, and as of that date is repealed.

SEC. 72. Section 72645 of the Government Code is amended to read:

72645. The marshal shall appoint all of the following:

(a) One assistant marshal. The marshal shall make the appointment from the peace officer members of the marshal's office of the rank of lieutenant or higher and the appointee shall serve solely at the pleasure of the marshal. Section 72649 does not apply to the appointment to, nor removal of a person from, this position, but all other provisions of Section 72649 apply. 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 the appointee prior to his or her appointment to the position of assistant marshal.

(b) Two commanders. Upon the occurrence of a vacancy, any succeeding appointment to this position may be made by the marshal at his or her sole discretion. At that time and thereafter, 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. The marshal shall make this appointment from the peace officer members of his or her office of the rank of lieutenant or higher, and the appointee shall serve solely at the pleasure of the marshal. 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 prior to appointment as commander.

(c) Ten captains.

(d) Twenty-two lieutenants.

(e) Thirty-seven sergeants.

(f) Five hundred deputy marshals; 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. Appointments to the positions shall be made from civil service lists resulting from open competitive examinations, provided that notwithstanding Section 72649, the appointees shall be subject to a 12-month period of probation.

(h) Four deputy marshal-matrons, each of whom 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.

(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. 73. Section 72706 of the Government Code is amended to read:

72706. In lieu of any position established in this chapter and to meet the needs of the court, the court administrator may appoint additional deputy clerks to any appropriate classification and title set forth in the Los Angeles County Ordinance 6222 (Title 6, Los Angeles County Code), provided, however, that a budgeted position of an equal or greater pay level is encumbered.

SEC. 74. Section 92100 of the Government Code is amended to read:

92100. There is in the state government the California Passenger Rail 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.

SEC. 75. Section 1150 of the Harbors and Navigation Code is amended to read:

1150. (a) There is in the state government a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, consisting of seven members appointed by the Governor, with the consent of the Senate, as follows:

(1) Two members shall be pilots, one of whom shall be licensed as a bar pilot, and one of whom shall be selected from among those serving as inland pilots on January 1, 1985. Subsequent pilot member vacancies shall be filled by pilots licensed pursuant to this division.

(2) Two members shall represent the industry and shall be persons currently engaged as owners, officers, directors, employees, or representatives of firms, or associations of firms, which are substantial users of pilotage service in San Francisco, San Pablo, and Suisun Bays, one of whom shall be engaged in the field of tanker company operations, and one of whom shall be engaged in dry cargo operations. The board of directors of a regional maritime trade

association controlled by West Coast vessel operators which specifically represents the owners and operators of vessels or barges engaged in transportation by water of cargo or passengers from or to the Pacific area of the United States shall nominate, rank, and submit to the Governor the names of three persons for each category of industry member to be appointed. Industry member vacancies shall be filled by the same process. The persons serving as industry members of the Pilotage Rate Committee on December 1, 1984, shall serve as the industry members pursuant to this paragraph and subdivision (b).

(3) Three members shall be public members and shall be appointed by the Governor. Any person may serve as a public member unless otherwise prohibited by law.

(4) Notwithstanding any other provision of law, nothing contained in this chapter shall prohibit the Governor from notifying the respective nominating authorities identified in paragraph (2) that persons nominated are unacceptable for appointment. Following that notification, the nominating authority shall submit a new list of nominees to the Governor, naming three persons for each board vacancy, none of which were previously nominated, from which the Governor may make the appointment. This process shall be continued until persons nominated by the nominating authority and satisfactory to the Governor have been appointed.

(b) Each of the members appointed pursuant to subdivision (a) shall be appointed for a four-year term, and shall not be appointed for more than two terms. Vacancies on the board for both expired and unexpired terms shall be filled by the appointing power in the manner prescribed by subdivision (a).

(c) The board members serving on January 1, 1985, shall continue to serve as the public members on the board and shall select one board member to serve a two-year term, one board member to serve a three-year term, and one board member to serve a four-year term. The board member selected for the initial two-year term may serve two additional four-year terms, if appointed pursuant to this section, and the remaining board members may only serve one additional four-year term, if appointed pursuant to this section.

(d) A quorum of the board members consists of four members, including at least one industry member and one pilot member. All actions of the board shall require the vote of four members, a quorum being present.

SEC. 76. Section 432.4 of the Health and Safety Code is amended to read:

432.4. The state department shall, by regulation, prescribe minimum requirements for the maintenance and operation of hospitals which receive federal aid for construction under the state plan and shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 as required for those purposes.

SEC. 77. Section 436.52 of the Health and Safety Code is amended

to read:

436.52. The testing of breath samples by or for law enforcement agencies for purposes of determining the concentration of ethyl alcohol in the blood of persons involved in traffic accidents or in traffic violations shall be performed in accordance with regulations adopted by the State Department of Health Services.

The rules and regulations shall establish the procedures to be used by law enforcement agencies in administering breath tests for the purposes of determining the concentration of ethyl alcohol in a person's blood. The rules and regulations shall be adopted and published in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 78. Section 1172.5 of the Health and Safety Code is repealed.

SEC. 79. Section 1339.50 of the Health and Safety Code is amended and renumbered to read:

1339.70. Notwithstanding any other provision of law, a county may by ordinance establish a department of the county which may combine in the department any or all of the functions specified in this section or related functions. The duties of the department shall be specified in the county ordinance establishing the department. Such duties may include the following:

(a) The performance of any function which is authorized by Section 1257 to be delegated to local health departments, to the extent delegated by the state department to the department established pursuant to this section. For purposes of this section and Section 1257, a department established pursuant to this section shall be deemed to be a local health department.

(b) The performance of any function which is authorized by Section 1511 to be delegated by the state department to a county, to the extent delegated by the state department to the department authorized by this section.

(c) The performance of any function in connection with, or related to, the certification of health facilities or community care facilities for participation in programs conducted pursuant to Title XVIII, Title XIX, or other provisions of the federal Social Security Act.

(d) The performance of any information and referral activities which are authorized by law to be performed by a county or any of its departments or officers in connection with health facilities or community care facilities.

(e) The performance of any function authorized by law to be performed by a county or any of its officers or departments in connection with the sanitation, maintenance, occupancy, or other aspects of the physical plant or environmental management of or concerning any health facility or community care facility. For purposes of this section, the department authorized by this section shall be deemed to be a county health department under the control of a county health officer with respect to any provision of law

authorizing the performance of any function concerning any health facility or community care facility by a local health department or health officer.

(f) The determination of the suitability for county use, placements, or referrals of particular health facilities or community care facilities.

This section shall not be construed as authorizing the performance of any activity by any county which the county would not otherwise be authorized to perform. This section shall not operate as an independent grant of authority for the performance of any function by a county, but shall permit the consolidation in an existing or new county department of any or all functions which counties are authorized to perform in connection with the matters specified in this section.

For purposes of this section, "health facility" means a health facility as defined in Section 1250, and "community care facility" means a community care facility as defined in Section 1502.

SEC. 80. Section 1397 of the Health and Safety Code is amended to read:

1397. (a) Whenever reference is made in this chapter to a hearing before or by the commissioner, the hearing shall be held in accordance with the Administrative Procedure Act (Chapter 5(commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of the powers granted under that act.

(b) Every final order, decision, license, or other official act of the commissioner under this chapter is subject to judicial review in accordance with the law.

SEC. 81. Section 1447 of the Health and Safety Code is amended to read:

1447. Notwithstanding any other provisions of the Welfare and Institutions Code, the county which is responsible for the payment of public assistance to any person or group of persons under Chapter 2 (commencing with Section 11200), Chapter 3 (commencing with Section 12000), or Chapter 4 (commencing with Section 12500) of Part 3 of Division 9 of that code, and the needy relative in the case of aid to needy children, shall provide the necessary hospital or medical care, or both, if otherwise qualified for that care. If a recipient of public assistance moves from one county to another county within this state to make his or her home, the county to which the recipient removes shall become responsible for providing medical or hospital care or both upon notification by the first county that the recipient has moved to the second county for the purpose of making his or her home in that county, provided that the recipient is otherwise qualified for the care, except that he or she need not meet the residence qualifications set forth in Section 17105 of the Welfare and Institutions Code.

SEC. 82. Section 1580 of the Health and Safety Code is amended to read:

1580. The state department shall adopt and may from time to time amend or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the state department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state. The regulations shall prescribe standards of safety and sanitation for the physical plant of adult day health centers and standards for the quality of adult day health care services, including, but not limited to, staffing with duly qualified personnel. In adopting the regulations, the state department shall take into account the physical and mental capabilities and needs of the persons to be served, and consideration shall be given to flexible application of safety and sanitation standards, if necessary, to be consistent with the legislative intent of establishing adult day health care programs in locations easily accessible to economically disadvantaged older persons. Program standards contained in regulations adopted pursuant to this section shall be those specified in Chapter 8.7 (commencing with Section 14520) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 83. Section 1597.98 of the Health and Safety Code is amended and renumbered to read:

1596.98. The department shall notify the day care center in writing of all deficiencies in its compliance with this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the center. Upon a finding of noncompliance, the department may levy a civil penalty not to exceed fifty dollars ($50) per day which shall be paid to the department each day until the department finds the center in compliance. If the center fails to comply within the established length of time, then the amount collected from the facility shall be forfeited to the department. In that case, the department may also initiate action against the facility in accordance with Article 4 (commencing with Section 1596.885) of Chapter 3.4.

SEC. 84. Section 18959 of the Health and Safety Code is amended to read:

18959. (a) Except as otherwise provided in Part 2.5 (commencing with Section 18901), all the state agencies shall administer and enforce this part with respect to qualified historical buildings or structures under their respective jurisdiction.

(b) Except as otherwise provided in Part 2.5 (commencing with Section 18901), all local building authorities shall administer and enforce this part with respect to qualified historical structures under their respective jurisdictions where applicable.

(c) The State Historical Building Code Advisory Board shall coordinate and consult with the other applicable state agencies affected by this part and, except as provided in Section 18943, disseminate provisions adopted pursuant to this part to all local

building authorities and state agencies at cost.

(d) Regulations adopted by the State Fire Marshal pursuant to this part shall be enforced in the same manner as regulations are enforced under Sections 13145, 13146, and 13146.5.

(e) Regular and alternative building standards published in the State Building Standards Code shall be enforced in the same manner by the same governmental entities as provided by law.

(f) When administering and enforcing the provisions of this part, all local agencies may make changes or modifications in the requirements contained in the State Historical Building Code, as described in Section 18944.7, as it determines are reasonably necessary because of local climatic, geological, and topographical conditions. The local agency shall make an express finding that the modifications or changes are needed, and the finding shall be available as a public record. A copy of the finding and change or modification shall be filed with the State Historical Building Code Advisory Board. No modification or change shall become effective or operative for any purpose until the finding and modification or change have been filed with the department.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before such date, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 18959 of the Health and Safety Code, as amended by Section 4 of Chapter 598 of the Statutes of 1981, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 85. Section 24342.3 of the Health and Safety Code, as added by Chapter 1546 of the Statutes of 1984, is amended and renumbered to read:

25242.3. If any provision of this article or the application thereof to any person or circumstance is held invalid, this holding shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end, the provisions of the article are severable.

SEC. 86. Section 25242 of the Health and Safety Code is amended to read:

25242. (a) Any city, county, or state agency which, as owner, lessor, or lessee, knows or has probable cause to believe that a disposal of hazardous waste which is not authorized pursuant to this chapter has occurred on, under, or into the land which the city, county, or state agency owns or leases shall notify the department. Upon receiving that notice, the department shall determine if there has been a disposal of hazardous waste which is not authorized pursuant to this chapter.

(b) If the department determines that there has been a disposal of hazardous waste which is not authorized pursuant to this chapter, the department shall do all of the following:

(1) Conduct, or arrange for the conducting of, tests to determine

the general chemical and mineral composition of the hazardous waste.

(2) Require the city, county, or state agency which submitted the notice pursuant to subdivision (a) to prepare a hazardous waste management plan specifying those removal or remedial actions, as defined in Sections 25322 and 25323, which are needed to be taken concerning the hazardous waste. The hazardous waste management plan shall provide for the protection of human health and the environment and minimize or eliminate the escape of hazardous waste constituents, leachate, contaminated rainfall, and waste decomposition products into ground and surface waters and into the atmosphere.

(3) Send notice of the department's findings made pursuant to paragraph (1) to the county in which the land is located, the city, if any, in which the land is located, the owner of the property, and residents living within 2,000 feet of the property line of the land on which the hazardous wastes were disposed. The department shall also post signs in the vicinity of the land which contain this information and are visible to the public. The department may also provide this notice to other persons, or post these signs in any other area, to protect the public health and safety or to provide the maximum opportunity for comment from the potentially affected public.

(4) Conduct public hearings on the proposed hazardous waste management plan during those times and at those places which are convenient to the affected public. These hearings shall be conducted even if the hazardous waste management plan provides that no removal or remedial actions will be taken. The department shall publish notice of these hearings in newspapers of general circulation, as defined in Section 6000 of the Government Code, and shall use all other reasonable means to publicize these hearings.

(5) Take all actions required by Section 25358.7 concerning any proposed removal or remedial actions.

(6) Take any other actions authorized by this chapter or Chapter 6.8 (commencing with Section 25300) to carry out the legislative intent specified in Section 25242.1.

(c) The city, county, or state agency which is required to prepare a hazardous waste management plan pursuant to paragraph (2) of subdivision (b) shall submit the proposed hazardous waste management plan for approval to the department or a California regional water quality control board, whichever the department determines is appropriate. A city or state agency shall submit the plan to the county in which the land is located, and a county or state agency shall submit the plan to the city, if any, in which the land is located, for comments and recommendations. The city, county, or state agency shall also consider whether to incorporate any changes in the plan which are recommended by the county, city, and the public.

SEC. 87. Section 25342.1 of the Health and Safety Code, as added

by Chapter 1546 of the Statutes of 1984, is amended and renumbered to read:

25242.1. It is the intention of the Legislature, in enacting this article, to protect the public health and safety and the environment by requiring all of the following:

(a) Prompt steps to remedy the unauthorized disposal of hazardous waste on public land be taken as soon as possible.

(b) Prompt notice be given to the affected public of such an unauthorized disposal of hazardous waste.

(c) The public be afforded an opportunity for input into the manner in which the hazardous waste will be cleaned up or rendered safe.

SEC. 88. Section 25342.2 of the Health and Safety Code, as added by Chapter 1546 of the Statutes of 1984, is amended and renumbered to read:

25242.2. Prior to, or simultaneously with, utilizing the provisions of this article, the department shall diligently pursue all feasible civil and criminal actions against the owner of the land or other party responsible for the disposal of the hazardous waste, who violates this chapter or the regulations adopted pursuant to this chapter.

The owner, lessee, or lessor of any land which is affected by hazardous waste which was disposed on, under, or into the land may recover the costs incurred in complying with this article, in a civil action, from any person who produced the waste or against any other person who was responsible for the disposal of the hazardous waste.

The lessee of any land, who was not responsible for the unauthorized disposal of the hazardous waste upon that land, may also recover the costs incurred in complying with this article from the owner of the land if the person who produced the waste or who was responsible for the disposal of hazardous waste cannot be located or cannot compensate the lessee for these costs.

SEC. 89. Section 28479 of the Health and Safety Code is amended to read:

28479. On receipt of an application showing that the applicant is properly equipped to package or manufacture olive oil, or is a wholesale distributor of olive oil whose name and address will appear upon olive oil containers as distributor and whose name also will appear upon those containers as the only California addressee, the department shall, free of charge, issue the applicant a license, not transferable, but good until revoked, to package, manufacture, or distribute olive oil as the case may be.

The department may revoke or suspend the license after a hearing. The proceedings for the revocation or suspension of a license shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted in that chapter.

SEC. 90. Section 28801 of the Health and Safety Code is amended to read:

28801. "Food," as used in this chapter, means all articles used for food, drink, confection, or condiment, for human consumption, or consumption by any animal which is maintained in the home as a pet, whether simple or compound, and all substances and ingredients used in the preparation thereof. The term, however, does not include any commercial feed as defined in Section 14925 of the Food and Agricultural Code.

SEC. 91. Section 383.5 of the Insurance Code is amended to read:

383.5. "Document," as used in this section, means a policy or a certificate evidencing insurance under a master policy. The policy or certificate shall conform to Section 381 and shall segregate the premiums charged for each risk insured against. The certificate, in lieu of specifying the risks insured against, may designate them by name or by description. "Document" also includes the applicable policy form and a subsequently issued declarations page conforming to Section 381 or an endorsement.

"Owner," as used in this section, means any person who is named as an insured in the contract of insurance or document, or in a loss payable clause therein, and, whether or not he or she is named therein, the vendee, pledgor, or chattel mortgagor of a motor vehicle where insurance contracts subject to this section are procured with respect to the motor vehicle by or on behalf of either party to the purchase, pledge, or mortgage.

Every contract of insurance against hazards incident to ownership, maintenance, operation, and use of motor vehicles shall be embodied in a document.

The original or true copy of the document shall be delivered to each owner. Where it is executed by an insurer, the insurer shall deliver the original or a true copy to either of the following:

(a) The agent or broker who negotiated the insurance, for delivery to each owner of the motor vehicle.

(b) Each owner of the motor vehicle.

Any owner whose interest in the insured vehicle is for security purposes only may by written notice to the insurer waive delivery of the policy and in lieu thereof there shall be delivered to the owner a written certificate of insurance setting forth in brief form the matters specified in Section 381.

The agent or broker receiving the original or copy shall deliver one to each owner. Where coverage subject to this section is evidenced by a document executed by an agent licensed under Chapter 5 (commencing with Section 1621) of Part 2, and not by an insurer, the agent and not the insurer is responsible for delivery of the original or a true copy to each owner.

The licenses of any agent or broker found by the commissioner after hearing to have violated this section may be suspended or revoked in accordance with the procedure provided in Article 13 (commencing with Section 1737) of Chapter 5 of Part 2, or the certificate of authority of any insurer found by the commissioner after hearing to have violated this section may be suspended or

revoked in accordance with the procedure provided in Section 704.

The purpose of this section is to prevent fraud or mistake in connection with the transaction of insurance covering motor vehicles and in furtherance of that purpose the commissioner may make reasonable rules and regulations therefor. The rules and regulations shall be adopted, amended, or repealed in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 92. Section 779.21 of the Insurance Code is amended to read:

779.21. The commissioner may adopt, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules and regulations as may be necessary to carry out the provisions of this article.

SEC. 93. Section 882.5 of the Insurance Code is amended to read:

882.5. (a) A home protection company proposing to issue a contract bearing the name of itself as well as another name which is the name of a person, persons, or organization of persons licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, or a franchised name therefor, shall first file an application with the commissioner for approval of the other name. The commissioner may reject any name so submitted when it is an interference with, or too similar to, one already appropriated or when it is likely to mislead the public in any respect. However, the name shall not be rejected, except pursuant to subdivision (b), if the name was used by the same entity for a similar offering in this state prior to May 3, 1978. In case of any rejection of a name pursuant to this subdivision, the application may be amended to submit another or other names.

(b) No such name shall be approved unless all power to transact home protection business (except as authorized in Section 771.1) and other powers specified by the commissioner by regulation, are specifically retained by the home protection company and the home protection contracts prominently disclose that fact.

The commissioner, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, may adopt reasonable regulations to implement this section.

SEC. 94. Section 1370 of the Insurance Code is amended to read:

1370. Every exchange shall maintain its required assets in any one, or more, or all of the following forms:

(a) In cash or deposits in solvent banks.

(b) Invested in securities of the kind designated for the investment of assets of incorporated insurers having a capital stock by the laws of the state where the principal office is located.

(c) Invested in real property acquired by or for it to secure the payment of loans heretofore contracted or for moneys heretofore due, or purchased at sales upon deeds of trust or upon judgments obtained for the loans or debts, or conveyed to it in satisfaction of

debts heretofore contracted in the course of its dealings. The real property may be acquired, held, and conveyed on behalf of the exchange in trust by the attorney, but shall be sold and disposed of within five years after acquisition of title thereto unless the time for any such sale or disposal is extended by the commissioner in writing.

(d) Excess fund investments may be made in real estate and in making improvements thereon for business or residential purposes as an investment for the production of income. "Business or residential purposes" does not include real estate primarily intended for use or valued as agricultural, horticultural, farm, ranch, or mineral property. Any such investment may be made only by admitted exchanges having admitted assets aggregating in value not less than twenty-five million dollars ($25,000,000). Real estate acquired and improvements made thereon shall not exceed an amount equal to 5 percent of the admitted assets of the exchange. Any investment in a single parcel of real estate including improvements thereon made under the authority of this subdivision shall not be made in an amount in excess of 1 percent of the admitted assets of the exchange. The percentage or dollar value of assets as provided in this subdivision shall be determined by the exchange's last preceding annual statement of conditions and affairs made as of the December 31 last preceding and which has been filed with the commissioner pursuant to law.

(e) In addition to the investments authorized by subdivisions (a) to (d), inclusive, every exchange may purchase, hold, or reconvey real estate for any of the following purposes:

(1) The building, and the land upon which that building stands, owned by it and in which is located its home office or principal office in this state by virtue of the occupancy thereof, in whole or in part, by its attorney-in-fact. The exchange may make any type of arrangement which is fair and reasonable for the occupation of the building, in whole or in part, by its attorney.

(2) Real estate requisite for its accommodation in the convenient transaction of its business.

(f) Subject to the limitations established under subdivisions (c), (d), and (e), every exchange in its own name as in the case of an individual, may purchase, receive, own, hold, lease, mortgage, pledge, or encumber, by deed of trust or otherwise, manage, and sell real estate for the purposes and objects of the exchange.

SEC. 95. Section 10191 of the Insurance Code is amended to read:

10191. (a) The commissioner may, from time to time as conditions warrant, after notice and hearing, promulgate such reasonable rules and regulations, and amendments and additions thereto, as are necessary or advisable, to establish and maintain a procedure for the filing and approval of documents, as defined in this section, prior to their issuance, delivery, or use in this state, in lieu of the requirements of submission, filing, or approval for the documents presently provided in Section 10205, 10205.5, 10205.6, 10225, 10270, 10270.1, 10270.57, 10270.9, 10270.91, 10270.92, 10270.93,

10290, 10292, 11066, 11069, 11513, 11513.1, 11513.2, 11515, or 11658. For purposes of this section, "document" includes, but is not limited to, every form of contract, insurance policy, application, rider, endorsement, amendment, insert policy page, certificate, or other evidence or notice of insurance, fill-in material, schedules of rates and classifications of risks, and any modification to any document, which is subject to the requirements of any of the enumerated sections.

(b) Any such rule or regulation shall be promulgated in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) In promulgating any such rule or regulation, the commissioner may give consideration to the following circumstances:

(1) Whether all such documents, the submission, filing, or approval of which is governed by any of the foregoing enumerated sections, or only a portion thereof described in the rule or regulation, shall be subject thereto.

(2) Whether certain documents or portions thereof should be regulated in respect of submission, filing, or approval in a fashion differing from similar requirements applicable to other documents.

(3) Whether varying procedures may be made applicable among admitted insurers in respect of the submission, filing or approval predicated, in whole or in part, upon such factors as the age and size of the submitting insurer, the period of its licensing in this state for the class or classes of insurance represented by the documents, the nature and number of prior submissions of similar documents and the disposition thereof by the commissioner, and similar criteria which is relevant to a determination that the submitting insurer has demonstrated compliance with all applicable statutes, rules, and regulations relating to documents comprising prior submissions.

(d) In promulgating any such rules and regulations, the commissioner shall, so far as practical, describe or define certain provisions: (1) which the commissioner will authorize without review when accompanied by a certification prescribed by him or her by rule, and (2) which the commissioner will under no circumstances approve.

(e) The commissioner shall establish a period of time, not shorter than one year, during which any change in the provisions which pursuant to subdivision (d), he or she has provided he or she will under no circumstances approve, will not apply to policies filed prior to the effective date of the change.

(f) Except as otherwise provided in this section any document approved by the commissioner pursuant to rules and regulations authorized by this section may have its approval withdrawn in accordance with subdivision (d) of Section 10291.5 or Section 12957, whichever is applicable.

SEC. 96. Section 10270.94 of the Insurance Code is amended to

read:

10270.94. The commissioner shall promulgate forms of provisions which incorporate in substance the applicable provisions set forth in Articles 4 (commencing with Section 10329), 4a (commencing with Section 10350), 5 (commencing with Section 10359), and 5a (commencing with Section 10369.1), and shall promulgate rules governing the use of those provisions, incorporating the substance, insofar as applicable, of the corresponding rules contained in this chapter for the use of the provisions set forth in Articles 4, 4a, 5, and 5a. However, as of January 1, 1957, the promulgation of provisions and rules governing their use incorporating in substance the applicable provisions of Articles 3 (commencing with Section 10309), 4 (commencing with Section 10329), and 5 (commencing with Section 10359) shall cease to be effective, and on and after January 1, 1957, only the promulgation of provisions and rules governing their use incorporating in substance the applicable provisions of Articles 3a (commencing with Section 10320), 4a (commencing with Section 10350), and 5a (commencing with Section 10369.1) shall be effective. The commissioner may from time to time thereafter change any such provisions or rules governing their use previously promulgated by him or her. The promulgation of any such provisions or rules governing their use and of any changes or amendments thereof shall be in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 97. Section 10291.5 of the Insurance Code is amended to read:

10291.5. (a) The purpose of this section is to achieve both of the following:

(1) Prevent, in respect to disability insurance, fraud, unfair trade practices, and insurance economically unsound to the insured.

(2) Assure that the language of all insurance policies can be readily understood and interpreted.

(b) The commissioner shall not approve any disability policy for insurance or delivery in this state in any of the following circumstances:

(1) If the commissioner finds that it contains any provision, or has any label, description of its contents, title, heading, backing, or other indication of its provisions which is unintelligible, uncertain, ambiguous, or abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

(2) If it contains any provision for payment at a rate, or in an amount (other than the product of rate times the periods for which payments are promised) for loss caused by particular event or events (as distinguished from character of physical injury or illness of the insured) more than triple the lowest rate, or amount, promised in the policy for the same loss caused by any other event or events (loss caused by sickness, loss caused by accident, and different degrees of disability each being considered, for the purpose of this paragraph,

a different loss); or if it contains any provision for payment for any confining loss of time at a rate more than six times the least rate payable for any partial loss of time or more than twice the least rate payable for any nonconfining total loss of time; or if it contains any provision for payment for any nonconfining total loss of time at a rate more than three times the least rate payable for any partial loss of time.

(3) If it contains any provision for payment for disability caused by particular event or events (as distinguished from character of physical injury or illness of the insured) payable for a term more than twice the least term of payment provided by the policy for the same degree of disability caused by any other event or events; or if it contains any benefit for total nonconfining disability payable for lifetime or for more than 12 months and any benefit for partial disability, unless the benefit for partial disability is payable for at least three months; or if it contains any benefit for total confining disability payable for lifetime or for more than 12 months, unless it also contains benefit for total nonconfining disability caused by the same event or events payable for at least three months, and, if it also contains any benefit for partial disability, unless the benefit for partial disability is payable for at least three months. The provisions of this paragraph shall apply separately to accident benefits and to sickness benefits.

(4) If it contains provision or provisions which would have the effect, upon any termination of the policy, of reducing or ending the liability as the insurer would have, but for the termination, for loss of time resulting from accident occurring while the policy is in force or for loss of time commencing while the policy is in force and resulting from sickness contracted while the policy is in force or for other losses resulting from accident occurring or sickness contracted while the policy is in force, and also contains provision or provisions reserving to the insurer the right to cancel or refuse to renew the policy, unless it also contains other provision or provisions the effect of which is that termination of the policy as the result of the exercise by the insurer of any such right shall not reduce or end the liability in respect to the hereinafter specified losses as the insurer would have had under the policy, including its other limitations, conditions, reductions, and restrictions, had the policy not been so terminated.

The specified losses referred to in the preceding paragraph are:

(i) Loss of time which commences while the policy is in force and results from sickness contracted while the policy is in force.

(ii) Loss of time which commences within 20 days following and results from accident occurring while the policy is in force.

(iii) Losses which result from accident occurring or sickness contracted while the policy is in force and arise out of the care or treatment of illness or injury and which occur within 90 days from the termination of the policy or during a period of continuous compensable loss or losses which period commences prior to the end of such 90 days.

(iv) Losses other than those specified in clause (i), (ii), or (iii) of this paragraph which result from accident occurring or sickness contracted while the policy is in force and which losses occur within 90 days following the accident or the contraction of the sickness.

(5) If by any caption, label, title, or description of contents the policy states, implies, or infers without reasonable qualification that it provides loss of time indemnity for lifetime, or for any period of more than two years, if the loss of time indemnity is made payable only when house confined or only under special contingencies not applicable to other total loss of time indemnity.

(6) If it contains any benefit for total confining disability payable only upon condition that the confinement be of an abnormally restricted nature unless the caption of the part containing any such benefit is accurately descriptive of the nature of the confinement required and unless, if the policy has a description of contents, label, or title, at least one of them contain reference to the nature of the confinement required.

(7) (A) If, irrespective of the premium charged therefor, any benefit of the policy is, or the benefits of the policy as a whole are, not sufficient to be of real economic value to the insured.

(B) In determining whether benefits are of real economic value to the insured, the commissioner shall not differentiate between insureds of the same or similar economic or occupational classes and shall give due consideration to all of the following:

(i) The right of insurers to exercise sound underwriting judgment in the selection and amounts of risks.

(ii) Amount of benefit, length of time of benefit, nature or extent of benefit, or any combination of those factors.

(iii) The relative value in purchasing power of the benefit or benefits.

(iv) Differences in insurance issued on an industrial or other special basis.

(C) To be of real economic value, it shall not be necessary that any benefit or benefits cover the full amount of any loss which might be suffered by reason of the occurrence of any hazard or event insured against.

(8) If it substitutes a specified indemnity upon the occurrence of accidental death for any benefit of the policy, other than a specified indemnity for dismemberment, which would accrue prior to the time of that death or if it contains any provision which has the effect, other than at the election of the insured exercisable within not less than 20 days in the case of benefits specifically limited to the loss by removal of one or more fingers or one or more toes or within not less than 90 days in all other cases, of doing any of the following:

(A) Of substituting, upon the occurrence of the loss of both hands, both feet, one hand and one foot, the sight of both eyes or the sight of one eye and the loss of one hand or one foot, some specified indemnity for any or all benefits under the policy unless the indemnity so specified is equal to or greater than the total of the

benefit or benefits for which such specified indemnity is substituted and which, assuming in all cases that the insured would continue to live, could possibly accrue within four years from the date of such dismemberment under all other provisions of the policy applicable to the particular event or events (as distinguished from character of physical injury or illness) causing the dismemberment.

(B) Of substituting, upon the occurrence of any other dismemberment some specified indemnity for any or all benefits under the policy unless the indemnity so specified is equal to or greater than one-fourth of the total of the benefit or benefits for which the specified indemnity is substituted and which, assuming in all cases that the insured would continue to live, could possibly accrue within four years from the date of the dismemberment under all other provisions of the policy applicable to the particular event or events (as distinguished from character of physical injury or illness) causing the dismemberment.

(C) Of substituting a specified indemnity upon the occurrence of any dismemberment for any benefit of the policy which would accrue prior to the time of dismemberment.

As used in this section, loss of a hand shall be severance at or above the wrist joint, loss of a foot shall be severance at or above the ankle joint, loss of an eye shall be the irrecoverable loss of the entire sight thereof, loss of a finger shall mean at least one entire phalanx thereof and loss of a toe the entire toe.

(9) If it contains provision, other than as provided in Section 10370, reducing any original benefit more than 50 percent on account of age of the insured.

(10) If the insuring clause or clauses contain no reference to the exceptions, limitations, and reductions (if any) or no specific reference to, or brief statement of, each abnormally restrictive exception, limitation, or reduction.

(11) If it contains benefit or benefits for loss or losses from specified diseases only unless:

(A) All of the diseases so specified in each provision granting the benefits fall within some general classification based upon the following:

(i) The part or system of the human body principally subject to all such diseases.

(ii) The similarity in nature or cause of such diseases.

(iii) In case of diseases of an unusually serious nature and protracted course of treatment, the common characteristics of all such diseases with respect to severity of affliction and cost of treatment.

(B) The policy is entitled and each provision granting the benefits is separately captioned in clearly understandable words so as to accurately describe the classification of diseases covered and expressly point out, when that is the case, that not all diseases of the classification are covered.

(12) If it does not contain provision for a grace period of at least

the number of days specified below for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force provided, that the grace period to be included in the policy shall be not less than seven days for policies providing for weekly payment of premium, not less than 10 days for policies providing for monthly payment of premium and not less than 31 days for all other policies.

(13) If it fails to conform in any respect with any law of this state.

(c) The commissioner may, from time to time as conditions warrant, after notice and hearing, promulgate such reasonable rules and regulations, and amendments and additions thereto, as are necessary or convenient, to establish, in advance of the submission of policies, the standard or standards conforming to subdivision (b), by which he or she shall disapprove or withdraw approval of any disability policy.

In promulgating any such rule or regulation the commissioner shall give consideration to the criteria herein established and to the desirability of approving for use in policies in this state uniform provisions, nationwide or otherwise, and is hereby granted the authority to consult with insurance authorities of any other state and their representatives individually or by way of convention or committee, to seek agreement upon those provisions.

Any such rule or regulation shall be promulgated in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) The commissioner may withdraw approval of filing of any policy or other document or matter required to be approved by the commissioner, or filed with him or her, by this chapter when the commissioner would be authorized to disapprove or refuse filing of the same if originally submitted at the time of the action of withdrawal.

Any such withdrawal shall be in writing and shall specify reasons. An insurer adversely affected by any such withdrawal may, within a period of 30 days following mailing or delivery of the writing containing the withdrawal, by written request secure a hearing to determine whether the withdrawal should be annulled, modified, or confirmed. Unless, at any time, it is mutually agreed to the contrary, a hearing shall be granted and commenced within 30 days following filing of the request and shall proceed with reasonable dispatch to determination. Unless the commissioner in writing in the withdrawal, or subsequent thereto, grants an extension, any such withdrawal shall, in the absence of any such request, be effective, prospectively and not retroactively, on the 91st day following the mailing or delivery of the withdrawal, and, if request for the hearing is filed, on the 91st day following mailing or delivery of written notice of the commissioner's determination.

(e) No proceeding under this section is subject to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2

of the Government Code.

(f) Except as provided in subdivision (i), any action taken by the commissioner under this section is subject to review by the courts of this state and proceedings on review shall be in accordance with the Code of Civil Procedure.

Notwithstanding any other provision of law to the contrary, petition for any such review may be filed at any time before the effective date of the action taken by the commissioner. No action of the commissioner shall become effective before the expiration of 20 days after written notice and a copy thereof are mailed or delivered to the person adversely affected, and any action so submitted for review shall not become effective for a further period of 15 days after the filing of the petition in court. The court may stay the effectiveness thereof for a longer period.

(g) This section shall be liberally construed to effectuate the purpose and intentions herein stated; but shall not be construed to grant the commissioner power to fix or regulate rates for disability insurance or prescribe a standard form of disability policy, except that the commissioner shall prescribe a standard supplementary disclosure form for presentation with all disability insurance policies, pursuant to Section 10603.

(h) This section shall be effective on and after July 1, 1950, as to all policies thereafter submitted and on and after January 1, 1951, the commissioner may withdraw approval pursuant to subdivision (d) of any policy thereafter issued or delivered in this state irrespective of when its form may have been submitted or approved, and prior to those dates the provisions of law in effect on January 1, 1949, shall apply to those policies.

(i) Any such policy issued by an insurer to an insured on a form approved by the commissioner, and in accordance with the conditions, if any, contained in the approval, at a time when that approval is outstanding shall, as between the insurer and the insured, or any person claiming under the policy, be conclusively presumed to comply with, and conform to, this section.

SEC. 98. Section 10293 of the Insurance Code is amended to read:

10293. (a) The commissioner shall, after notice and hearing, withdraw approval of an individual or mass-marketed policy of disability insurance if after consideration of all relevant factors the commissioner finds that the benefits provided under the policy are unreasonable in relation to the premium charged. The commissioner shall, from time to time as conditions warrant, after notice and hearing, promulgate such reasonable rules and regulations, and amendments and additions thereto, as are necessary to establish the standard or standards by which the commissioner shall withdraw approval of any such policy. Any such rule or regulation shall be promulgated in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall be effective 90 days after adoption by the commissioner.

(b) Unless the commissioner specifies otherwise in writing in the withdrawals, or subsequent thereto, grants an extension, any such withdrawal shall be effective prospectively and not retroactively on the 91st day following the mailing or delivery of the withdrawal.

(c) As used in this section:

(1) "Mass-marketed policy" means any group or blanket disability insurance policy which is offered by means of direct response solicitation through a sponsoring organization, or through the mails or other mass communications media and under which a person insured pays all or substantially all of the cost of his or her insurance.

(2) "Direct response solicitation" means any offer by an insurer to persons in this state, either directly or through a third party, to effect health insurance coverage which enables the individual to apply or enroll for the insurance on the basis of the offer. It shall not include solicitation for insurance through an employer benefit plan which is defined in Public Law 93-406, nor shall it include such a solicitation through the individual's creditor with respect to credit health insurance.

SEC. 99. Section 10507.4 of the Insurance Code is amended to read:

10507.4. In furtherance of the purpose of this article, the commissioner may make reasonable rules and regulations. The rules and regulations shall be adopted, amended, or repealed in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 100. Section 11512.3 of the Insurance Code, as amended by Chapter 540 of the Statutes of 1984, is amended and renumbered to read:

11512.97. A hospital service plan contract where the plan is licensed to do business in this state and which provides coverage under a contract which includes California residents but which may be written or issued for delivery outside of California where benefits are provided within the scope of practice of a licensed clinical social worker, a registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, or a marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, shall not be deemed to prohibit persons covered under the contract from selecting those licensees in California to perform the services in California which are within the terms of the contract even though the licensees are not licensed in the state where the contract is written or issued for delivery.

It is the intent of the Legislature in amending this section in the 1984 portion of the 1983–84 Legislative Session that persons covered by the contract and those providers of health care specified in this

section who are licensed in California should be entitled to the benefits provided by the plan for services of those providers rendered to those persons.

SEC. 101. Section 11513 of the Insurance Code, as added by Chapter 163 of the Statutes of 1984, is amended and renumbered to read:

11513.3. A nonprofit hospital service plan that offers or provides one or more podiatry services, as defined in Section 2472 of the Business and Professions Code, as a specific podiatric plan benefit shall not refuse to give reasonable consideration to affiliation with podiatrists for the provision of service solely on the basis that they are podiatrists.

SEC. 102. Section 12389 of the Insurance Code is amended to read:

12389. (a) An underwritten title company as defined in Section 12340.5, which shall be a stock corporation, may engage in the business of preparing title searches, title reports, title examinations, certificates or abstracts of title, upon the basis of which a title insurer writes title policies, provided that:

(1) Only domestic corporations may be licensed under this section and no underwritten title company, as defined in Section 12340.5, shall become licensed under this section, or change the name under which it is licensed or operates, unless it has first complied with Section 881.

(2) Depending upon the county or counties in which the company is licensed to transact business, it shall maintain required minimum net worth as follows:

Aggregate number of documents recorded and documents filed in the offices of the county recorders in the preceding calendar year in all counties where the company is licensed to transact business	Amount of required minimum net worth
Less than 50,000	$ 75,000
50,000 to 100,000	120,000
100,000 to 500,000	200,000
500,000 to 1,000,000	300,000
1,000,000 or more	400,000

"Net worth" means the excess of assets over all liabilities and required reserves. It may carry as an asset the actual cost of its title plant provided the value ascribed to the asset shall not exceed the aggregate value of all other assets.

Where a title plant of an underwritten title company is not being currently maintained, the asset value of the plant shall not exceed its

asset value as determined in the preceding paragraph as of the date to which the plant is currently maintained, less 1/10th thereof for each succeeding year or part thereof that the plant is not being currently maintained. For the purposes of this section, a title plant shall be deemed currently maintained so long as it is used in the normal conduct of the business of title insurance, and (1) the owner thereof continues regularly to obtain and index title record data to the plant or to a continuation thereof in a format other than that previously used, including, but not limited to, computerization of the data, or (2) the owner thereof is a participant, in an arrangement for joint use of a title plant system regularly maintained in any format, provided the owner is contractually entitled to receive a copy of the title record data contained in the jointly used title plant system during the period of the owner's participation therein, either periodically or upon termination of that participation, at a cost not to exceed the actual cost of duplication of the title record data.

An underwritten title company at all times shall maintain current assets of at least ten thousand dollars ($10,000) in excess of its current liabilities, as the current assets and liabilities may be defined pursuant to regulations made by the commissioner. In making the regulations, the commissioner shall be guided by generally accepted accounting principles followed by certified public accountants in this state.

(3) Such an underwritten title company shall obtain from the commissioner a license to transact its business. The license shall not be granted until the applicant conforms to the requirements of this section and all other provisions of this code specifically applicable to the applicant. After issuance the holder shall continue to comply with the requirements as to its business set forth in this code, in the applicable rules and regulations of the commissioner, and in the laws of this state.

Any underwritten title company who possesses, or is required to possess, a license pursuant to this section shall be subject as if an insurer to the provisions of Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1 of this code and shall be deemed to be subject to authorization by the Insurance Commissioner within the meaning of subdivision (e) of Section 25100 of the Corporations Code.

The license may be obtained by filing an application on a form prescribed by the commissioner accompanied by a filing fee of three hundred dollars ($300). The license, when issued, shall be for an indefinite term and shall expire with the termination of the existence of the holder, subject to the annual renewal fee imposed under Sections 12415 and 12416.

An underwritten title company seeking to extend its license to an additional county shall pay a one hundred seventy-five dollar ($175) fee for each such additional county, and shall furnish to the commissioner evidence, at least sufficient to meet the minimum net

worth requirements of paragraph (2), of its financial ability to expand its business operation to include the additional county or counties.

(4) Such an underwritten title company shall furnish an audit to the commissioner on the forms provided by the commissioner annually, either on a calendar year basis on or before March 31 or, if approved in writing by the commissioner in respect to any individual company, on a fiscal year basis on or before 90 days after the end of the fiscal year. The time for furnishing any such audit may be extended, for good cause shown, on written approval of the commissioner for a period, not to exceed 60 days. Failure to submit an audit on time, or within such extended time as the commissioner may grant, shall be grounds for an order by the commissioner to accept no new business pursuant to subdivision (d). The audits shall be private, except that a synopsis of the balance sheet on a form prescribed by the commissioner may be made available to the public.

The audits shall be made in accordance with generally accepted auditing standards by an independent certified public accountant or independent licensed public accountant whose certification or license is in good standing at the time of the preparation. The fee for filing the audit shall be two hundred sixty-five dollars ($265).

The commissioner may refuse to accept an audit or order a new audit for any of the following reasons:

(i) Adverse result in any proceeding before the State Board of Accountancy affecting the auditor's license.

(ii) The auditor has an affiliation with the underwritten title company or any of its officers or directors which would prevent his or her reports on the company from being reasonably objective.

(iii) The auditor has suffered conviction of any misdemeanor or felony based on his or her activities as an accountant.

(iv) Judgment adverse to the auditor in any civil action finding him or her guilty of fraud, deceit, or misrepresentation in the practice of his or her profession.

Any company which fails to file any audit or other report on or before the date it is due shall pay to the commissioner a penalty fee of one hundred dollars ($100) and on failure to pay that fee or any other fee or file the audit required by this section shall forfeit the privilege of accepting new business until the delinquency is corrected.

(b) Such an underwritten title company may engage in the escrow business and act as escrow agent provided that it does all of the following:

(1) Maintain a record of all receipts and disbursements of escrow funds.

(2) Deposit seven thousand five hundred dollars ($7,500) for each county in which it transacts business in some form permitted by Section 12351 with the commissioner who shall forthwith make a special deposit thereof in the State Treasury and the deposit shall be

subject to Sections 12353, 12356, 12357, and 12358 and as long as there are no claims against the deposit all interest and dividends thereon shall be paid to the depositor. The deposit shall be for the security and protection of persons having lawful claims against the depositor growing out of escrow transactions with it. The deposit shall be maintained until four years after all escrows handled by the depositor have been closed.

(A) The commissioner may release the deposits prior to the passage of the four-year period upon presentation of evidence satisfactory to the commissioner of either a statutory merger of the depositor into a licensee or certificate holder subject to the jurisdiction of the commissioner, or a valid assumption agreement under which all liability of the depositor stemming from escrow transactions handled by it is assumed by a licensee or certificate holder subject to the jurisdiction of the commissioner.

(B) With the foregoing exceptions, the deposit shall be returned to the depositor or lawful successor in interest following the four-year period, upon presentation of evidence satisfactory to the commissioner that there are no claims against the deposit stemming from escrow transactions handled by the depositor. If the commissioner has evidence of one or more claims against the depositor, and the depositor is not in conservatorship or liquidation, the commissioner may interplead the deposit by special endorsement to a court of competent jurisdiction for distribution on the basis that claims against the depositor stemming from escrow transactions handled by it have priority in the distribution over other claims against the depositor.

(c) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. All the examinations shall be at the expense of the company.

(d) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with any of the provisions of this section, the commissioner shall make his or her order prohibiting the company from conducting its business for a period of not more than one year.

Any company violating such an order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 is guilty of a misdemeanor and the commissioner may revoke its license. Any person aiding and abetting any company in a violation of such an order is guilty of a misdemeanor.

The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out these purposes, the commissioner may make reasonable rules and regulations to govern the conduct of the business of companies subject to this section.

The name under which each underwritten title company is licensed shall at all times be an approved name. The fee for filing an

application for a change of name shall be one hundred dollars ($100). Each such company is subject to Article 14 (commencing with Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

The rules and regulations shall be adopted, amended, or repealed in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 103. Section 12752 of the Insurance Code is amended to read:

12752. (a) Each home protection company shall file statements exhibiting its conditions and affairs in accordance with Sections 900, 900.5, 900.7, 900.8, 900.9, 902, 903, 903.5, 904 to 911, inclusive, 922.1 to 922.8, inclusive, 923, 923.5, and 924. However, the required contents of the statements may be varied from the requirements thereof, pursuant to regulation adopted by the commissioner in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, so as to adapt the requirements to the home protection business.

(b) The commissioner shall, prior to licensure and at such times as appear necessary, examine the business and affairs of any home protection company subject to this part. Every home protection company so examined shall open its books and records for inspection by the commissioner and shall otherwise facilitate and cooperate in the examination. In making the examination, the commissioner shall have the rights specified in Section 733, and the examinee shall be subject to the obligations of Section 736.

SEC. 104. Section 12763 of the Insurance Code is amended to read:

12763. No home protection contract shall be issued or delivered until a copy of the form thereof is filed with the commissioner. The commissioner may charge a fee for the filing, which fee shall be established by regulation adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 105. Section 12923 of the Insurance Code is amended to read:

12923. (a) With respect to all classes of insurance (1) to (20), inclusive, as defined in Sections 101 to 120, inclusive, "actuary," for the purposes of this section, means either of the following:

(1) A member of the American Academy of Actuaries.

(2) An individual who has demonstrated by training and experience actuarial competence to the satisfaction of the Insurance Commissioner.

(b) The commissioner shall, after notice and hearing, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, promulgate reasonable rules and regulations which do all of the following:

(1) Describe the documents which must be signed by an actuary when the documents are filed with the commissioner.

(2) Implement paragraph (2) of subdivision (a).

SEC. 106. Section 115 of the Penal Code is amended to read:

115. (a) Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of a felony.

(b) Each instrument which is procured or offered to be filed, registered, or recorded in violation of subdivision (a) shall constitute a separate violation of this section.

(c) Except in unusual cases where the interests of justice would best be served if probation is granted, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person with a prior conviction under this section who is again convicted of a violation of this section in a separate proceeding.

(2) Any person who is convicted of more than one violation of this section in a single proceeding, with intent to defraud another, and where the violations resulted in a cumulative financial loss exceeding one hundred thousand dollars ($100,000).

(d) For purposes of prosecution under this section, each act of procurement or of offering a false or forged instrument to be filed, registered, or recorded shall be considered a separately punishable offense.

SEC. 107. Section 600 of the Penal Code is amended to read:

600. (a) Any person who willfully strikes, beats, kicks, cuts, stabs, shoots with a firearm, administers any poison or other harmful or stupefying substance to, or throws, hurls, or projects at, or places any rock, object, or other substance which is used in such a manner as to be capable of producing injury and likely to produce injury, on or in the path of, any horse being used by any peace officer in the discharge or attempted discharge of his or her duties, is guilty of a public offense. If the injury inflicted is a serious injury, as defined in subdivision (c), the person shall be punished by imprisonment in the state prison for 16 months, two or three years, or in a county jail for not exceeding one year, or by a fine not exceeding two thousand dollars ($2,000), or by both a fine and imprisonment. If the injury inflicted is not a serious injury, the person shall be punished by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both a fine and imprisonment.

(b) Any person who willfully interferes with or obstructs any horse being used by any peace officer in the discharge or attempted discharge of his or her duties by frightening, teasing, agitating, harassing, or hindering the horse shall be punished by imprisonment in a county jail for not exceeding one year, or by a fine not exceeding

one thousand dollars ($1,000), or by both a fine and imprisonment.

(c) Any person who, in violation of this section, and with intent to inflict such injury or death, personally causes the death, destruction, or serious physical injury including bone fracture, loss or impairment of function of any bodily member, wounds requiring extensive suturing, or serious crippling, of any horse, shall, upon conviction of a felony under this section, in addition and consecutive to the punishment prescribed for the felony, be punished by an additional term of imprisonment in the state prison for one year.

(d) Any person who, in violation of this section, and with the intent to inflict such injury, personally causes great bodily injury, as defined in Section 12022.7, to any person not an accomplice, shall, upon conviction of a felony under this section, in addition and consecutive to the punishment prescribed for the felony, be punished by an additional term of imprisonment in the state prison for two years unless the conduct described in this subdivision is an element of any other offense of which the person is convicted or receives an enhancement under Section 12022.7.

SEC. 108. Section 1205 of the Penal Code is amended to read:

1205. (a) A judgment that the defendant pay a fine, with or without other punishment, may also direct that he or she be imprisoned until the fine is satisfied and may further direct that the imprisonment begin at and continue after the expiration of any imprisonment imposed as a part of the punishment or of any other imprisonment to which he or she may theretofore have been sentenced. Each of these judgments shall specify the extent of the imprisonment for nonpayment of the fine, which shall not be more than one day for each thirty dollars ($30) of the fine, nor exceed in any case the term for which the defendant might be sentenced to imprisonment for the offense of which the defendant has been convicted. A defendant held in custody for nonpayment of a fine shall be entitled to credit on the fine for each day he or she is so held in custody, at the rate specified in the judgment. When the defendant has been convicted of a misdemeanor, a judgment that the defendant pay a fine may also direct that he or she pay the fine within a limited time or in installments on specified dates and that in default of payment as therein stipulated he or she be imprisoned in the discretion of the court either until the defaulted installment is satisfied or until the fine is satisfied in full; but unless the direction is given in the judgment, the fine shall be payable forthwith.

(b) Except as otherwise provided in case of fines imposed as conditions of probation, the defendant shall pay the fine to the clerk of the court, or to the judge thereof if there is no clerk, unless the defendant is taken into custody for nonpayment of the fine, in which event payments made while the defendant is in custody shall be made to the officer who holds the defendant in custody and all amounts so paid shall be forthwith paid over by the officer to the court which rendered the judgment. The clerk shall report to the

court every default in payment of a fine or any part thereof, or if there is no clerk, the court shall take notice of the default. If time has been given for payment of a fine or it has been made payable in installments, the court shall, upon any default in payment, immediately order the arrest of the defendant and order the defendant to show cause why he or she should not be imprisoned until the fine or installment thereof, as the case may be, is satisfied in full. If the fine or installment is payable forthwith and it is not so paid, the court shall without further proceedings, immediately commit the defendant to the custody of the proper officer to be held in custody until the fine or installment thereof, as the case may be, is satisfied in full. This section applies to any violation of any of the codes or statutes of the state punishable by a fine or by a fine and imprisonment.

(c) The defendant shall pay to the clerk of the court or the collecting agency a fee for the processing of installment accounts. This fee shall equal the administrative and clerical costs, as determined by the board of supervisors, except that the fee shall not exceed thirty dollars ($30).

(d) In order to determine the feasibility and potential benefits of such a system, the Legislature hereby authorizes the establishment of the following program, to be implemented on a demonstration basis in the County of San Diego, upon the adoption of a resolution by the board of supervisors authorizing it, for the period from January 1, 1984, to January 1, 1986. The Board of Supervisors of the County of San Diego may establish a fee for the processing of accounts receivable that are not to be paid in installments. The defendant shall pay to the clerk of the court or the collecting agency the fee established for the processing of these accounts. The fee shall equal the administrative and clerical costs, as determined by the board of supervisors, except that the fee shall not exceed thirty dollars ($30).

(e) The Board of Supervisors of the County of San Diego, if it has implemented the program authorized by subdivision (d), shall submit a written report to the Legislature, on an annual basis, detailing the following information:

(1) The number of defendants upon whom the county has imposed fees pursuant to subdivision (d).

(2) The number of defendants upon whom the county has imposed fines pursuant to this section.

(3) The actual costs associated with processing accounts receivable that are not to be paid in installments.

(4) The amount of revenue derived from assessment of fees pursuant to subdivision (d).

SEC. 109. Section 11105.5 of the Penal Code is amended to read:

11105.5. When the Department of Justice receives a report that the record of a person has been sealed under Section 851.7, 851.8, or 1203.45, it shall send notice of that fact to all officers and agencies that

it had previously notified of the arrest or other proceedings against the person.

SEC. 110. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser of any firearm capable of being concealed upon the person shall be required to present clear evidence of his or her identity, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing an incorrect birth date, and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register shall, on the date of sale, be placed in the mail, postage prepaid, and properly addressed to the Department of Justice at Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale is made. Where the sale is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale is made.

(c) If the department determines that the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d) or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the pistol, revolver, or other firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee, not to exceed the actual processing costs of the department, sufficient to reimburse the department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon

appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section.

SEC. 111. Section 12306 of the Penal Code is amended to read:

12306. (a) Any person, firm or corporation, other than those included in Section 12305, shall obtain a permit from the Department of Justice before possessing or transporting any destructive device.

(b) Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the destructive devices are to be put.

(c) Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

(d) Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 112. Section 13505 of the Penal Code is amended to read:

13505. In exercising its functions, the commission shall endeavor to minimize costs of administration so that a maximum of funds will be expended for the purpose of providing training and other services to local law enforcement agencies. All expenses shall be a proper charge against the revenue accruing under Article 3 (commencing with Section 13520).

SEC. 113. Section 21005 of the Public Resources Code, as added by Chapter 1438 of the Statutes of 1984, is repealed. The repeal made by this section shall not affect the existence or validity of Section 21005 of the Public Resources Code, as added by Chapter 1514 of the Statutes of 1984.

SEC. 114. Section 21167.8 of the Public Resources Code, as added by Chapter 1438 of the Statutes of 1984, is repealed. The repeal made by this section shall not affect the existence or validity of Section 21167.8 of the Public Resources Code, as added by Chapter 1514 of the Statutes of 1984.

SEC. 115. Section 1039 of the Public Utilities Code is repealed.

SEC. 116. Section 140003 of the Public Utilities Code is amended to read:

140003. "Board of supervisors" means the Santa Clara County Board of Supervisors.

SEC. 117. Section 140256.7 of the Public Utilities Code is amended to read:

140256.7. It is the intent of the Legislature that funds generated pursuant to this division do not replace local funds which would otherwise be spent on highway projects. Funds generated pursuant to this division shall not be expended to replace local funds committed by local governments for expenditure on the portion of State Highway Route 85 east of State Highway Route 87 as of July 16, 1984. However, these funds may be expended on Route 85 for the purposes of adding lanes for vehicular traffic or for costs associated with the conversion of Route 85 into an expressway or a freeway.

SEC. 118. Section 75.72 of the Revenue and Taxation Code is amended to read:

75.72. Any penalties, costs, or other charges resulting from delinquency of supplemental taxes shall be distributed pursuant to Part 8 (commencing with Section 4651).

SEC. 119. Section 480.4 of the Revenue and Taxation Code, as added by Chapter 872 of the Statutes of 1984, is amended and renumbered to read:

480.5. (a) Every owner of tax-exempt real property shall report to the local assessor the creation, renewal, sublease, or assignment of any lease, sublease, license, use permit, or other document which conveys the right to use that real property within 60 days of the transaction. The report shall include all of the following:

(1) The name and address of the owner.

(2) The names and addresses of all other parties to the transaction, including an identification of each party and of his or her possessory interest.

(3) The type of transaction, whether creation, renewal, sublease, or assignment.

(4) A description of the property.

(5) The date of the transaction.

(6) The terms of the transaction, including all of the following:

(A) The consideration for the possessory interest, whether paid in money or otherwise.

(B) The term of the possessory interest, including any renewal or extension options.

(C) If a sublease, the original term, the remaining term, and the consideration paid for the master lease.

(D) If an assignment, the original term, the remaining term, and the consideration paid for the underlying lease.

(b) This section shall be applicable only in those counties in which the board of supervisors, by ordinance or resolution, specifically elects to have this section applicable in the county. This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute which is chaptered on or before January 1, 1991, deletes or extends that date.

SEC. 120. Section 6471 of the Revenue and Taxation Code is repealed.

SEC. 121. Section 6471.5 of the Revenue and Taxation Code is

amended and renumbered to read:

6471. (a) 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 make prepayments as prescribed in this section.

(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 95 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 of the following:

(A) Ninety-five percent of the amount of state and local tax liability for the second monthly period of the quarterly period, plus 95 percent of the amount of state and local tax liability for the first 15 days of the third monthly period of the quarterly period.

(B) Ninety-five percent of the amount of state and local tax liability for the second monthly period of the quarterly period, plus 50 percent of 95 percent of the amount of the liability for the second monthly period of the quarterly period.

(b) 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 monthly 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. 122. Section 6472 of the Revenue and Taxation Code is repealed.

SEC. 123. Section 6472.5 of the Revenue and Taxation Code is amended and renumbered to read:

6472. For purposes of Section 6471.5, prepayment shall be accompanied by a report of the amount of the prepayment in a form

prescribed by the board and shall be made to the board as follows:

(a) In the first, third, and fourth calendar quarters, on or before the 24th day next following the end of each of the first two monthly periods of each quarterly period.

(b) In the second calendar quarter as follows:

(1) The first prepayment on or before the 24th day next following the end of the first monthly period of each quarterly period.

(2) 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. 124. Section 6474 of the Revenue and Taxation Code is repealed.

SEC. 125. Section 6474.5 of the Revenue and Taxation Code is amended and renumbered 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 Section 6471.5, 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. 126 Section 17046 of the Revenue and Taxation Code is amended to read:

17046. For purposes of this part, "surviving spouse" has the same meaning as that term is defined by Section 2(a) of the Internal Revenue Code.

SEC. 127. Section 17052.8 of the Revenue and Taxation Code is amended to read:

17052.8. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039, an amount equal to the amount determined in paragraph (2), (3), or (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. For energy conservation measures which are installed on or after August 1, 1983, the percentage specified in the preceding sentence shall be 35 percent (in lieu of 40 percent). The credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. The owner of the premises on which the energy conservation measures are 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 energy conservation tax credit for any or all energy conservation measures installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are 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.

The energy conservation tax credit shall be claimed in the state income tax return for the taxable year in which the energy conservation measures were installed. However, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the energy conservation measures are 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.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that tax year.

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, on which the cost of the measures (as defined in paragraph (7)) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measures.

(4) (A) If energy conservation measures serve two or more dwelling units, 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 energy conservation measures by the number of dwelling units served by the energy conservation measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost.

(B) 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 17053.5, 17061, and 18551.1, 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 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 subparagraph does not apply to taxable years beginning on or after January 1, 1982.

(5) Taxpayers who partially own and partially lease on premises in California which are owned by the taxpayer energy conservation measures from a utility or other lessor shall receive a tax credit as

provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7)) of the purchased portion and 40 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 energy conservation tax credit terminates, whichever occurs first. For energy conservation measures which are installed on or after August 1, 1983, the percentage specified in the preceding sentence shall be 35 percent (in lieu of 40 percent). The credit shall not exceed one thousand five hundred dollars ($1,500) for each premises.

(B) In the case of premises, other than dwellings, on which the cost (as defined in paragraph (7)) incurred by the lessor exceeds six thousand dollars ($6,000), the credit provided by this paragraph 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 energy conservation tax credit terminates, whichever occurs first.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purposes of computing the credit provided by this section, "cost" includes installation charges, but excludes interest charges. In the case of measures which are leased, "cost" means the principal recovery portion of monthly lease payments. "Principal recovery portion" means the cost incurred by the lessor in acquiring the energy conservation measures, but does not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any energy conservation measure for which a credit is allowed shall be reduced by the amount of the credit. 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 energy conservation measures are installed, each owner shall be eligible to receive the energy conservation tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the energy conservation 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 does 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 this "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit until the credit is used. The credit shall be applied first to the earliest years possible. With regard to energy conservation measures installed between August 1, 1983, and December 31, 1983, no more than 50 percent of the allowable credits under this section shall be applied against the taxpayer's "net tax" for the 1983 taxable year. The remaining portion of the credit shall be carried over to succeeding taxable years until that credit is used.

(f) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. The standards shall include minimum provisions for effectiveness, safety, and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(g) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent the credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed either 40 percent or 35 percent, as provided in paragraph (2) and subparagraph (A) of paragraph (5) of subdivision (a), of the costs, notwithstanding the carryover provisions of subdivision (e).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent the credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of the federal credit.

(h) For purposes 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 land, buildings, 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) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (f):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Wall insulation.

(H) Floor insulation in premises with electrical resistance heating.

(I) Ventilation cooling fans, attic ventilators, and economizer systems.

(J) Heat pumps and water heating heat pumps (including those which use air, water, or earth as a source or sink of heat) which replace electric resistance heaters or are used in conjunction with a solar energy system.

(K) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(L) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of the operational California plan approved in 1983 pursuant to Section 456.204 of Title 10 of the Code of Federal Regulations and maintained under the authority of this section until December 31, 1985, or an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210

of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to, all of the following:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling.

(iv) Load management devices to reduce the direct or indirect use of electricity through interruption, storage, or load limiting.

(v) Floor insulation except as specified in subparagraph (H).

(M) For existing dwellings where there is no operational Residential Conservation Service (RCS) Plan certified in accordance with this section or in regions where such a plan does not provide energy audits, and for premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling, and glazing materials (other than doors and windows), controls, or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Load management devices to reduce the direct or indirect use of electricity through interruption, storage, or load limiting.

(v) Floor insulation, except as specified in subparagraph (H).

(N) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Evaporative coolers.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Floor insulation.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units, and (G), (H), (I), (J), (L), (M), and (N) installed in any premises, shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1985. State agencies shall ensure that taxpayers may qualify for a tax credit under the provisions of subparagraph (L) until the termination date set forth in this paragraph.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F), installed in premises other than multifamily dwelling units, and (K) installed in any premises shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1986.

Any unused credit may be used beyond the date specified on the same basis and to the same extent as permitted under the law in effect immediately prior to that date.

(6) The energy conservation tax credit provided by this section also applies to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(7) "Operational Residential Conservation Service Plan" means the operational California plan approved in 1983 pursuant to Section 456.204 of Title 10 of the Code of Federal Regulations and maintained under the authority of this section until December 31, 1985, or a Residential Conservation Service (RCS) Plan, developed pursuant to Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), and which provides energy audits for measures identified in this section in accordance with the requirements of such an RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(i) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17253. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(j) No tax credit may be claimed under this section for any

expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was installed or for any prior taxable year.

(k) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(*l*) (1) Except as provided in paragraph (2), the tax credit provided by this section does not apply to energy conservation measures required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (K) of paragraph (5) of subdivision (h).

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 that date, deletes or extends that date.

SEC. 128. Section 17274 of the Revenue and Taxation Code is amended to read:

17274. (a) Notwithstanding any other provisions in this part to the contrary, in the case of a taxpayer who derives rental income from substandard housing located in this state, no deduction shall be allowed for interest, taxes, depreciation, or amortization paid or incurred in the taxable year with respect to the substandard housing, except as provided in subdivision (e).

(b) "Substandard housing" means housing which (1) has been determined by a state or local government regulatory agency to violate state law or local codes dealing with health, safety, or building; and (2) after written notice of violation by the regulatory agency, specifying the applicability of this section, has not been brought to a condition of compliance within six months after the date of the notice or the time prescribed in the notice, whichever period is later; or on which good faith efforts for compliance have not been commenced, as determined by the regulatory agency. The regulatory agency may, for good cause shown, extend the compliance date prescribed in a violation notice.

(c) When the period specified in subdivision (b) has expired without compliance, the regulatory agency shall mail to the taxpayer a notice of noncompliance. The notice of noncompliance shall be in such form and shall include such information as may be prescribed by the Franchise Tax Board, shall be mailed by certified mail to the taxpayer at the taxpayer's last known address, and shall advise the taxpayer (1) of an intent to notify the Franchise Tax Board of the noncompliance within 10 days unless an appeal is filed, (2) where an appeal may be filed, and (3) of a general description of the tax consequences of the filing with the Franchise Tax Board. Appeals shall be made to the same body and in the same manner as appeals from other actions of the regulatory agency. If no appeal is made within 10 days or after disposition of the appeal if the regulatory agency is sustained, the regulatory agency shall notify the Franchise

Tax Board of the noncompliance. No deduction shall be allowed for the items provided in subdivision (a) from the date of the notice of noncompliance until the date the regulatory agency determines that the substandard housing has been brought to a condition of compliance. The regulatory agency shall mail to the Franchise Tax Board and the taxpayer a notice of compliance, which notice shall be in such form and include such information as may be prescribed by the Franchise Tax Board. In the event the period of noncompliance does not cover an entire taxable year, the deductions shall be denied at the rate of one-twelfth for each full month during the period of noncompliance.

If the property is owned by more than one owner or if recorded title is in the name of a fictitious owner, the notice requirements provided in subdivision (b) and this subdivision shall be satisfied for each owner if the notices are mailed to one owner or to the fictitious name owner at the address appearing on the latest available property tax bill. However, notices made pursuant to this subdivision shall not relieve the regulatory agency from furnishing taxpayer identification information required to implement this section to the Franchise Tax Board.

(d) For the purposes of this section, a notice of noncompliance shall not be mailed by the regulatory agency to the Franchise Tax Board if any of the following occur:

(1) The rental housing was rendered substandard solely by reason of earthquake, flood, or other natural disaster except where the condition remains for more than three years after the disaster.

(2) The owner of the rental housing has secured financing to bring the housing into compliance with those laws or codes which have been violated, causing the housing to be classified as substandard, and has commenced repairs or other work necessary to bring the housing into compliance.

(3) The owner of rental housing which is not within the meaning of housing accommodation as defined by subdivision (d) of Section 35805 of the Health and Safety Code has attempted to:

(A) Secure financing to bring the housing into compliance with those laws or codes which have been violated, causing the housing to be classified as substandard; and

(B) The financing is denied solely because the housing is located in a neighborhood or geographical area in which financial institutions do not provide financing for rehabilitation of any such housing.

(e) This section does not apply to deductions from income derived from property rendered substandard solely by reason of a change in applicable state or local housing standards unless the violations cause substantial danger to the occupants of the property, as determined by the regulatory agency which has served notice of violation pursuant to subdivision (b).

(f) The owner of rental housing found to be in noncompliance

shall, upon total or partial divestiture of interest in the property, immediately notify the regulatory agency of the name and address of the person or persons to whom the property has been sold or otherwise transferred and the date of the sale or transference.

(g) By July 1 of each year, the regulatory agency shall report to the appropriate legislative body of its jurisdiction all of the following information, for the preceding calendar year, regarding its activities to secure code enforcement, which shall be public information:

(1) The number of written notices of violation issued for substandard dwellings under subdivision (b).

(2) The number of violations complied with within the period prescribed in subdivision (b).

(3) The number of notices of noncompliance issued pursuant to subdivision (c).

(4) The number of appeals from those notices pursuant to subdivision (c).

(5) The number of successful appeals by owners.

(6) The number of notices of noncompliance mailed to the Franchise Tax Board pursuant to subdivision (c).

(7) The number of cases in which a notice of noncompliance was not sent pursuant to subdivision (d).

(8) The number of extensions for compliance granted pursuant to subdivision (b) and the mean average length of the extensions.

(9) The mean average length of time from the issuance of a notice of violation to the mailing of a notice of noncompliance to the Franchise Tax Board where the notice is actually sent to the Franchise Tax Board.

(10) The number of cases where compliance is achieved after a notice of noncompliance has been mailed to the Franchise Tax Board.

(11) The number of instances of disallowance of tax deductions by the Franchise Tax Board resulting from referrals made by the regulatory agency. This information may be filed in a supplemental report in succeeding years as it becomes available.

SEC. 129. Section 17281 of the Revenue and Taxation Code is amended to read:

17281. In computing taxable income, no deductions shall be allowed to any taxpayer on any of his or her gross income directly derived from illegal activities as defined in Chapter 9 (commencing with Section 319), 10 (commencing with Section 330), or 10.5 (commencing with Section 337.1) of Title 9 of Part 1 of the Penal Code; nor shall any deductions be allowed to any taxpayer on any of his or her gross income derived from any other activities which directly tend to promote or to further, or are directly connected or associated with, those illegal activities. A prior, final determination by a court of competent jurisdiction of the state in any criminal proceeding or any proceeding in which the state, county, city and county, city, or other political subdivision was a party thereto on the

merits of the legality of the activities of a taxpayer or predecessor in interest of a taxpayer shall be binding upon the Franchise Tax Board and State Board of Equalization.

SEC. 130. Section 17504 of the Revenue and Taxation Code is amended to read:

17504. Section 402(a) of the Internal Revenue Code, relating to taxability of beneficiaries of exempt trusts, shall be modified as follows:

(a) Any amount qualifying for capital gain treatment under Section 402(a)(2) of the Internal Revenue Code shall be treated as a gain from the sale or exchange of a capital asset held for more than five years.

(b) Section 402(a)(2) of the Internal Revenue Code does not apply to any distribution to the extent that the distribution is attributable to contributions made on behalf of the employee while he or she was an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code.

SEC. 131. Section 17635 of the Revenue and Taxation Code is amended to read:

17635. (a) An organization described in Section 401(a) of the Internal Revenue Code which is subject to the provisions of this section shall not be exempt from taxation under Section 17631 if it has engaged in a prohibited transaction after December 31, 1960.

(b) An organization described in Section 401(a) of the Internal Revenue Code shall be denied exemption from taxation under Section 17631 by reason of subdivision (a) only for taxable years after the taxable year during which it is notified by the Franchise Tax Board that it has engaged in a prohibited transaction, unless the organization entered into the prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purposes, and the transaction involved a substantial part of the corpus or income of the organization.

SEC. 132. Section 18033 of the Revenue and Taxation Code is amended to read:

18033. Section 1014(b) of the Internal Revenue Code, relating to property acquired from a decedent, shall be modified as follows:

(a) Sections 1014(b)(5) through (10), inclusive, do not apply.

(b) The following property shall be considered to have been acquired from or to have passed from the decedent:

(1) In case of decedents dying on or after January 1, 1976, property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any state, territory, or possession of the United States or any foreign country, if the decedent's one-half of the whole of the community interest in the property was transferred, within the meaning of Chapter 3 (commencing with Section 13551) of the California Inheritance Tax Law, to someone other than the surviving spouse.

(2) In the case of decedents dying after April 8, 1953, but before January 1, 1976, property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any state, territory, or possession of the United States or any foreign country, if at least one-half of the whole of the community interest in the property was includable in determining the value of the decedent's gross estate under Chapter 3 (commencing with Section 13551) of the California Inheritance Tax Law.

(3) In the case of decedents dying after December 31, 1952, and before the annuity starting date, if the date is on or after January 1, 1968, property which represents the survivor's interest in a joint and survivor's annuity if the value of any part of the interest was required to be included in determining the value of the decedent's gross estate under the California Inheritance Tax Law.

(4) In the case of decedents dying after December 31, 1954, property acquired from the decedent by reason of death, form of ownership, or other conditions (including property acquired through the exercise or nonexercise of a power of appointment), if by reason thereof the property is required to be included in determining the value of the decedent's estate under Part 8 (commencing with Section 13301). In that case, if the property is acquired before the death of the decedent, the basis shall be the amount determined under Section 1014(a) of the Internal Revenue Code reduced by the amount allowed to the taxpayer as deductions in computing taxable income under this part or prior income tax laws for exhaustion, wear and tear, obsolescence, amortization, and depletion on that property before the death of the decedent. The basis shall be applicable to the property commencing on the death of the decedent. This paragraph does not apply to any of the following:

(A) Property described in any other subdivision of this section.

(B) Annuities described in Sections 72(a) to 72(*l*), inclusive, of the Internal Revenue Code.

SEC. 133. Section 18162.5 of the Revenue and Taxation Code is amended to read:

18162.5. (a) In the case of any taxpayer, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset, except gains from small business stock or nonproductive assets, shall be taken into account in computing taxable income:

(1) One hundred percent if the capital asset has been held for not more than one year.

(2) Sixty-five percent if the capital asset has been held for more than one year but not more than five years.

(3) Fifty percent if the capital asset has been held more than five years.

(b) In the case of any taxpayer, only the following percentages of

the gain recognized upon the sale or exchange of small business stock shall be taken into account in computing taxable 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).

(c) In the case of any taxpayer, only the following percentages of the gain recognized upon the sale or exchange of nonproductive assets shall be taken into account in computing taxable income:

(1) One hundred percent if the nonproductive asset has been held for not more than one year.

(2) Seventy percent if the nonproductive asset has been held for more than one year but not more than five years.

(3) Fifty percent if the nonproductive asset has been held for more than five years.

(d) Subdivision (b) applies with respect to small business stock acquired after September 16, 1981.

(e) For purposes of this section, "small business stock" is an equity security issued by a corporation which has the following characteristics at the time of acquisition by the taxpayer:

(1) The commercial domicile or primary place of business is located within California.

(2) The total employment of the corporation is no more than 500 employees, as measured by the number of employees covered by federal unemployment insurance on December 31 of the year preceding acquisition of the small business stock, a majority of which employees were covered by California unemployment insurance on December 31 of the year preceding acquisition of the small business stock. However, if more than 50 percent of the outstanding equity securities of all classes are held by another corporation, the employment of the controlling corporation shall be counted as employment of the eligible corporation for purposes of this section.

(3) The outstanding issues of the corporations, including those held by the taxpayer, are not listed on the New York Stock Exchange, the American Stock Exchange, or the National Association of Securities Dealers Automated Quotation System.

(4) No more than 25 percent of gross receipts in the immediate prior income year were obtained from rents, interest, dividends, or sales of assets.

(5) The corporation is not engaged primarily in the business of holding land.

(6) Notwithstanding paragraph (4), "small business stock"

includes an equity security issued by a corporation which has derived no more than 25 percent of its gross receipts from rents, dividends, or sales of assets during any of the first four income years following the date of its incorporation.

Paragraph (6) shall not be deemed satisfied by a corporation which issues equity securities if that corporation, for tax purposes only, liquidates its assets, in whole or in part, in anticipation of qualifying under those provisions and then subsequently reorganizes that portion of the corporation under a new name.

(f) For purposes of this section, "small business stock" does not include an equity security issued by a corporation which has either of the following characteristics in the income year immediately prior to the taxpayer's sale or exchange of the equity security:

(1) More than 25 percent of its gross receipts were obtained from rents, interest, dividends, or sales of assets.

(2) The corporation was primarily engaged in the business of holding land.

(g) For purposes of this section, a "nonproductive asset" is any piece of property which is any of the following:

(1) A precious or strategic metal, including but not limited to, gold, silver, and platinum, except when used by the taxpayer in his or her trade or business.

(2) Jewelry or individual gems, except when used by the taxpayer in his or her trade or business.

(3) Objects of art, except when used by the taxpayer in his or her trade or business.

(4) Antique items, including, but not limited to, furniture, automobiles, coins, and ceramic objects, except when used by the taxpayer in his or her trade or business.

(5) Stamps, except when used by the taxpayer in his or her trade or business.

SEC. 134. Section 18244 of the Revenue and Taxation Code is amended to read:

18244. (a) This article applies to the taxable year only if the taxpayer chooses to have the benefits of this article for that taxable year. The choice may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this part for the taxable year.

(b) If the taxpayer chooses the benefits of this article for the taxable year, subdivision (b) of Section 17085 (relating to limitation of tax in case of certain distributions with respect to contributions by self-employed individuals) shall not apply to him or her for that year.

(c) (1) Paragraph (2) applies to any individual who was married for any base period year or the computation year. However, the paragraphs do not apply in respect of a base period year if all of the following apply:

(A) The individual and the individual's spouse make a joint return for the computation year.

(B) The individual was not married to any other spouse for the base period year.

(2) For purposes of this article, the base period income of an individual for any base period year shall not be less than 50 percent of the base period income which would result from combining his or her income and deductions for the year with any of the following, as appropriate:

(A) With the income and deductions for the year of the individual who is his or her spouse for the computation year.

(B) If greater, with the income and deductions for the year of the individual who was his or her spouse for the base period year.

(3) For purposes of this subdivision, Section 143 of the Internal Revenue Code applies in determining whether an individual is married for any taxable year.

(d) In the case of a joint return, the three thousand dollars ($3,000) figure contained in Section 18241 shall be applied to the aggregate averageable income.

(e) (1) Section 72(m) of the Internal Revenue Code (relating to penalties applicable to certain amounts received by owner-employees) shall be applied as if this article had not been enacted.

(2) Except as otherwise provided in this article, the order and manner in which items of income or limitations on tax shall be taken into account in computing the tax imposed by this part on the income of any eligible individual to whom Section 18241 applies for any computation year shall be determined under regulations prescribed by the Franchise Tax Board.

(f) In the case of any computation year or base period year which is a short taxable year, this article shall be applied in the manner provided in regulations prescribed by the Franchise Tax Board.

SEC. 135. Section 18586 of the Revenue and Taxation Code is amended to read:

18586. (a) Except in the case of a fraudulent return and except as otherwise expressly provided in this part, every notice of a proposed deficiency assessment shall be mailed to the taxpayer within four years after the return was filed. No deficiency shall be assessed or collected with respect to the year for which the return was filed unless the notice is mailed within the four-year period or the period otherwise fixed.

(b) The running of the period of limitations provided in subdivision (a) on mailing a notice of proposed deficiency assessment shall, in a case under Title 11 of the United States Code, be suspended for any period during which the Franchise Tax Board is prohibited by reason of that case from mailing the notice of proposed deficiency assessment and 60 days thereafter.

SEC. 136. Section 18654 of the Revenue and Taxation Code is amended to read:

18654. (a) If the individual who is in physical possession of cash

in excess of ten thousand dollars ($10,000) does not claim that cash in any of the capacities specified in paragraphs (1) and (2), then for purposes of Sections 18641 and 18642, it shall be presumed that the cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay:

(1) The cash is not claimed as his or hers.

(2) The cash is not claimed as belonging to another person whose identity the Franchise Tax Board can readily ascertain and who acknowledges ownership of that cash.

(b) In the case of any assessment resulting from the application of subdivision (a), all of the following apply:

(1) The entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs.

(2) That income shall be treated as taxable at an 11 percent rate.

(3) Except as provided in subdivision (c), the possessor of the cash shall be treated (solely with respect to that cash) as the taxpayer for purposes of Chapter 18 (commencing with Section 18551) and Chapter 19 (commencing with Section 18801).

(c) If, after an assessment resulting from the application of subdivision (a), that assessment is abated and replaced by an assessment against the owner of the cash, that later assessment shall be treated for purposes of all laws relating to lien, levy, and collection as relating back to the date of the original assessment.

(d) For purposes of this section, the following definitions apply:

(1) "Cash" includes any cash equivalent.

(2) "Cash equivalent" means any of the following:

(A) Foreign currency.

(B) Any bearer obligation.

(C) Any medium of exchange to which both of the following apply:

(i) It is of a type which has been frequently used in illegal activities.

(ii) It is specified as a cash equivalent for purposes of this part in regulations prescribed by the Franchise Tax Board.

(3) Any cash equivalent shall be taken into account in the following manner:

(A) In the case of a bearer obligation, at its face amount.

(B) In the case of any other cash equivalent, at its fair market value.

SEC. 137. Section 18802.5 of the Revenue and Taxation Code is amended to read:

18802.5. (a) Every employer who during any calendar year provides group-term life insurance on the life of an employee during part or all of the calendar year under a policy (or policies) carried directly or indirectly by the employer shall make a return according to the forms or regulations prescribed by the Franchise Tax Board, setting forth the cost of the insurance and the name and address of

the employee on whose life the insurance is provided, but only to the extent that the cost of the insurance is includable in the employee's gross income under Section 79(a) of the Internal Revenue Code. For purposes of this section, the extent to which the cost of group-term life insurance is includable in the employee's gross income under Section 79(a) of the Internal Revenue Code shall be determined as if the employer were the only employer paying the employee remuneration in the form of that insurance.

(b) Every employer making a return under subdivision (a) shall furnish to each employee whose name is set forth in the return a written statement showing the cost of the group-term life insurance shown on the return. The written statement required under the preceding sentence shall be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subdivision (a) was made.

SEC. 138. Section 18819 of the Revenue and Taxation Code is amended to read:

18819. (a) Any employer or person required to withhold and transmit any amount pursuant to this article shall comply with the requirement without resort to any legal or equitable action in a court of law or equity. Any employer or person paying to the Franchise Tax Board any amount required by it to be withheld is not liable therefor to the person from whom withheld unless the amount withheld is refunded to the withholding agent. However, if a depository institution, as defined in subparagraph (A) of paragraph 1 of subsection (b) of Section 461 of Title 12 of the United States Code withholds and pays to the Franchise Tax Board pursuant to this article any moneys held in a deposit account in which the delinquent taxpayer and another person or persons have an interest, or in an account held in the name of a third party or parties in which the delinquent taxpayer is ultimately determined to have no interest, the depository institution paying those moneys to the Franchise Tax Board is not liable therefor to any of the persons who have an interest in the account, unless the amount withheld is refunded to the withholding agent.

(b) In the case of a deposit account or accounts for which this notice to withhold applies, the depository institution shall send a notice by first-class mail to each person named on the account or accounts included in the notice from the Franchise Tax Board, provided that a current address for each person is available to the institution. This notice shall inform each person as to the reason for the hold placed on the account or accounts, the amount subject to being withheld, and the date by which this amount is to be remitted to the Franchise Tax Board. An institution may assess the account or accounts of each person receiving this notice a reasonable service charge not to exceed three dollars ($3).

SEC. 139. Section 19051.1 of the Revenue and Taxation Code is repealed.

SEC. 140. Section 19062.11 of the Revenue and Taxation Code is amended to read:

19062.11. (a) Except as provided in subdivisions (b), (c), and (d), 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 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 the overpayment.

For the purposes of this section, "overpayment of tax" includes a refund in excess of tax liability as prescribed in subdivision (h) of Section 17053.5.

(b) In the case of returns which set forth no determination or amount of tax liability, or credits other than that allowed under Section 17053.5, and which are filed solely for the purpose of claiming the renter credit, no interest shall be allowed on refunds made within 90 days from the date on which the return is filed, or within 90 days after the last day prescribed for filing the return, whichever is later. This subdivision applies only when communication with the claimant or other verification is necessary to determine entitlement to the claimed credit.

(c) For the 1982 taxable year and each taxable year thereafter, the 90-day time periods specified in subdivision (a) shall be 45 days.

(d) In the case of a return of tax which is filed after the last date prescribed for filing the return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed.

SEC. 141. Section 19085 of the Revenue and Taxation Code is amended to read:

19085. If the Franchise Tax Board fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and bring an action against the Franchise Tax Board on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment. For substitution of the 120-day period for the six-month period contained in this section in a Title 11 case, see Section 505(a)(2) of Title 11 of the United States Code.

SEC. 142. Section 20645.7 of the Revenue and Taxation Code is amended to read:

20645.7. (a) In addition to the criminal penalty provided by Section 20645.9, any tax preparer who endorses or otherwise negotiates (directly or through an agent) any warrant made with respect to assistance claimed under this part which is issued to a claimant (other than the tax preparer) shall pay a penalty of two hundred fifty dollars ($250) with respect to each such warrant. The preceding sentence does not apply with respect to the deposit by a bank (as defined by Section 581 of the Internal Revenue Code) of the

full amount of the warrant in the claimant's account in that bank for the benefit of the claimant.

(b) For purposes of subdivision (a), "tax preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any claim for assistance under this part. For purposes of the preceding sentence, the preparation of a substantial portion of such a claim shall be treated as if it were the preparation of the claim.

A person shall not be a "tax preparer" merely because the person does any of the following:

(1) Furnishes typing, reproducing, or other mechanical assistance.

(2) Prepares as a fiduciary a claim for assistance for any person.

(c) This section does not apply where the tax preparer has advanced the taxpayer an amount of money equal to or greater than the amount of the taxpayer's tax refund.

SEC. 143. 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. The 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 the 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 the 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) "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) "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) "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 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) applies to expenditures incurred after December 31, 1976.

(e) The amendment made to this section by Chapter 1558 of the Statutes of 1982 applies with respect to rehabilitation expenditures incurred after December 31, 1981.

SEC. 144. Section 24359.1 of the Revenue and Taxation Code is amended to read:

24359.1. Notwithstanding any other provision of law, any credit or deduction allowed by Section 23603 or 24357.8 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. 145. Section 24414 of the Revenue and Taxation Code is amended to read:

24414. (a) Startup expenditures of a bank or corporation may, at the election of the bank or corporation, be treated as deferred expenses. These deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the bank or corporation begins business).

(b) For purposes of subdivision (a), "startup expenditure" means any amount paid or incurred in connection with any of the following activities, and which, if paid or incurred in connection with the expansion of an existing trade or business (in the same field as the trade or business referred to in paragraph (1) or (2)), would be allowable as a deduction for the income year in which paid or incurred:

(1) Investigating the creation or acquisition of an active trade or business.

(2) Creating an active trade or business.

(c) An election under subdivision (a) shall be made not later than the time prescribed by law for filing the return for the income year in which the business begins (including extensions thereof).

(d) The period selected under subdivision (a) shall be adhered to in computing net income for the income year for which the election is made and all subsequent income years.

SEC. 146. Section 24521 of the Revenue and Taxation Code is amended to read:

24521. (a) No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in the corporation and immediately after the exchange the person or persons are in control (as defined in Section 24564) of the corporation.

(b) If subdivision (a) would apply to an exchange but for the fact that there is received, in addition to the stock or securities permitted to be received under subdivision (a), other property or money, then:

(1) Gain (if any) to the recipient shall be recognized, but not in excess of the total of both of the following:

(A) The amount of money received.

(B) The fair market value of the other property received.

(2) No loss to the recipient shall be recognized.

(c) In determining control, for purposes of this section, the fact that any corporate transferor distributes part or all of the stock which it receives in the exchange to its shareholders shall not be taken into account.

(d) For purposes of this section, stock or securities issued for any of the following shall not be considered as issued in return for property:

(1) Services.

(2) Indebtedness of the transferee corporation which is not evidenced by a security.

(3) Interest on indebtedness of the transferee corporation which accrued on or after the beginning of the transferor's holding period for the debt.

(e) This section does not apply to a transfer of property of a debtor pursuant to a plan while the debtor is under the jurisdiction of a court in a Title 11 or similar case (within the meaning of paragraph (1) of subdivision (d) of Section 24562), to the extent that the stock or securities received in the exchange are used to satisfy the indebtedness of the debtor.

SEC. 147. Section 24562 of the Revenue and Taxation Code is amended to read:

24562. (a) For purposes of Chapters 8 (commencing with Section 24451), 9 (commencing with Section 24501), and this chapter, "reorganization" means:

(1) A statutory merger or consolidation.

(2) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of that other corporation (whether or not the acquiring corporation had control immediately before the acquisition).

(3) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded.

(4) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Section 24531, 24533, or 24535.

(5) A recapitalization.

(6) A mere change in identity, form, or place of organization of one corporation, however effected.

(7) A transfer by a corporation of all or part of its assets to another corporation in a Title 11 or similar case; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Section 24531, 24533, or 24535.

(b) (1) If a transaction is described in both paragraph (3) and paragraph (4) of subdivision (a), then, for purposes of this chapter, the transaction shall be treated as described only in paragraph (4) of subdivision (a).

(2) If:

(A) One corporation acquires substantially all of the properties of another corporation;

(B) The acquisition would qualify under paragraph (3) of subdivision (a) but for the fact that the acquiring corporation exchanges money or other property in addition to voting stock; and

(C) The acquiring corporation acquires, solely for voting stock described in paragraph (3) of subdivision (a), property of the other corporation having a fair market value which is at least 80 percent of the fair market value of all of the property of the other corporation;

then the acquisition shall (subject to paragraph (1) of this subdivision) be treated as qualifying under paragraph (3) of subdivision (a). Solely for the purpose of determining whether subparagraph (C) of the preceding sentence applies, the amount of any liability assumed by the acquiring corporation, and the amount of any liability to which any property acquired by the acquiring corporation is subject, shall be treated as money paid for the property.

(3) A transaction otherwise qualifying under paragraph (1), (2), or (3) of subdivision (a) shall not be disqualified by reason of the fact that part or all of the assets or stock which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring the assets or stock A similar rule shall apply to a transaction otherwise qualifying under paragraph (7) of subdivision (a) where the requirements of subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 24531 are met with respect to the acquisition of the assets.

(4) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this paragraph as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under paragraph (1) or paragraph (7) of subdivision (a), if—

(A) No stock of the acquiring corporation is used in the transaction, and

(B) In the case of a transaction under paragraph (1) of subdivision (a), the transaction would have qualified under paragraph (1) of subdivision (a) had the merger been into the controlling corporation.

(5) A transaction otherwise qualifying under paragraph (1) of subdivision (a) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this paragraph as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if both of the following apply:

(A) After the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction).

(B) In the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of the corporation.

(6) (A) If immediately before a transaction described in subdivision (a) (other than paragraph (5) thereof), two or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of subparagraph (B).

(B) A corporation meets the requirements of this subparagraph if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of five or fewer issuers. For purposes of this paragraph, all members of a controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code of 1954) shall be treated as one issuer.

(C) For purposes of this paragraph, "investment company" means a regulated investment company, a real estate investment trust, or a corporation 50 percent or more of the value of whose total assets are stock and securities and 80 percent or more of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock

outstanding.

(D) For purposes of this paragraph, in determining total assets there shall be excluded cash and cash items (including receivables), government securities, and, under regulations prescribed by the Franchise Tax Board, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of subparagraph (B) or ceasing to be an investment company.

(E) This paragraph does not apply if the stock of each investment company is owned substantially by the same persons in the same proportions.

(F) If an investment company which does not meet the requirements of subparagraph (B) acquires assets of another corporation, subparagraph (A) shall be applied to the investment company and its shareholders and security holders as though its assets had been acquired by the other corporation. If the investment company acquires stock of another corporation in a reorganization described in Section 24562(a)(2) (hereafter referred to as the "actual acquisition") subparagraph (A) shall be applied to the shareholders of the investment company as though they had exchanged with such other corporation all of their stock in the investment company for stock having a fair market value equal to the fair market value of their stock of the investment company immediately after the exchange.

(G) For purposes of subparagraphs (B) and (C), "securities" includes obligations of state and local governments, commodity futures contracts, shares of regulated investment companies and real estate investment trusts, and other investments constituting a security within the meaning of the Investment Company Act of 1940, 15 U.S.C. Sec. 80a-2(36).

(c) The amendments made to this section by the 1971 First Extraordinary Session of the Legislature shall apply to statutory mergers occurring after December 31, 1970.

(d) (1) For purposes of this chapter, "Title 11 or similar case" means—

(A) A case under Title 11 of the United States Code, to the extent this chapter is not in conflict with Section 346(q)(17)(C) of Title 11, or

(B) A receivership, foreclosure, or similar proceeding in a federal or state court.

(2) In applying paragraph (7) of subdivision (a), a transfer of the assets of a corporation shall be treated as made in a Title 11 or similar case only if both of the following apply:

(A) Any party to the reorganization is under the jurisdiction of the court in that case.

(B) The transfer is pursuant to a plan of reorganization approved by the court.

(3) If a transaction (but for this paragraph) qualifies both—

(A) Under paragraph (7) of subdivision (a), and

(B) Under any other paragraph of subdivision (a) or under Section 24502 or 24521, then, for purposes of this chapter (other than Section 24540(c)(1)), the transaction shall be treated as qualifying only under paragraph (7) of subdivision (a).

(4) For purposes of paragraphs (1) and (2), in the case of a receivership, foreclosure, or similar proceeding before a federal or state agency involving a financial institution to which Section 585 or 593 of the Internal Revenue Code applies, the agency shall be treated as a court.

(5) In the case of a Title 11 or similar case, the requirement of subparagraph (B) of paragraph (5) of subdivision (b) shall be treated as met if both of the following apply:

(A) No former shareholder of the surviving corporation received any consideration for his stock.

(B) The former creditors of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, debt of the surviving corporation which had a fair market value equal to 80 percent or more of the total fair market value of the debt of the surviving corporation.

SEC. 148. Section 24918 of the Revenue and Taxation Code is amended to read:

24918. (a) If:

(1) An amount is excluded from gross income under subdivision (a) of Section 24307 (relating to discharge of indebtedness), and

(2) Under subparagraph (D) of paragraph (2) of subdivision (b), paragraph (5) of subdivision (b), or subparagraph (A) of paragraph (1) of subdivision (c) of Section 24307, any portion of the amount is to be applied to reduce basis,

then the portion shall be applied in reduction of the basis of any property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs.

(b) (1) The amount of reduction to be applied under subdivision (a) (not in excess of the portion referred to in subdivision (a)), and the particular properties the bases of which are to be reduced, shall be determined under regulations prescribed by the Franchise Tax Board.

(2) In the case of a discharge to which subparagraph (A) of paragraph (1) of subdivision (a) of Section 24307 applies, the reduction in basis under subdivision (a) of this section shall not exceed the excess of:

(A) The aggregate of the bases of the property held by the taxpayer immediately after the discharge, over

(B) The aggregate of the liabilities of the taxpayer immediately after the discharge.

The preceding sentence does not apply to any reduction in basis by reason of an election under paragraph (5) of subdivision (b) of Section 24307.

(3) (A) Any amount which under paragraph (5) of subdivision (b) or subparagraph (A) of paragraph (1) of subdivision (c) of Section 24307 is to be applied to reduce the basis shall be applied only to reduce the basis of depreciable property held by the taxpayer.

(B) For purposes of this section, "depreciable property" means any property of a character subject to the allowance for depreciation, but only if a basis reduction under subdivision (a) will reduce the amount of depreciation or amortization which otherwise would be allowable for the period immediately following the reduction.

(C) For purposes of this section, any interest of a partner in a partnership shall be treated as depreciable property to the extent of that partner's proportionate interest in the depreciable property held by the partnership. The preceding sentence applies only if there is a corresponding reduction in the partnership's basis in depreciable property with respect to that partner.

(D) For purposes of this section, if—

(i) A corporation holds stock in another corporation (hereinafter in this subparagraph referred to as the "subsidiary"), and

(ii) The corporations are members of the same unitary group which file a combined report under Section 25101 for the income year in which the discharge occurs,

then the stock shall be treated as depreciable property to the extent that the subsidiary consents to a corresponding reduction in the basis of its depreciable property.

(E) (i) At the election of the taxpayer, for purposes of this section, "depreciable property" includes any real property which is described in Section 1221(1) of the Internal Revenue Code.

(ii) An election under clause (i) shall be made on the taxpayer's return for the income year in which the discharge occurs or at such other time as may be permitted in regulations prescribed by the Franchise Tax Board. Such an election, once made, may be revoked only with the consent of the Franchise Tax Board.

(c) For purposes of this title, a reduction in basis under this section shall not be treated as a disposition.

SEC. 149. Section 134 of the Streets and Highways Code is amended to read:

134. In the expenditure of funds allocated under Sections 2107 and 2117 for expenditure on other than state highways, the department may, upon the application of the governing body of the city, acquire in the name of the city real property, or any interest therein, for any of the purposes provided for in those sections.

SEC. 150. Section 213 of the Streets and Highways Code is amended to read:

213. The commission shall cause to be filed and published, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, copies of the procedural resolution. All revisions made subsequent to the time of

filing of the first resolution shall be filed and published in the same manner. In addition to the filing and publication, the department and the commission shall furnish copies of the procedural resolutions to any person or organization requesting them.

SEC. 151. Section 1732 of the Streets and Highways Code is amended to read:

1732. County highways established pursuant to this article shall be included in the terms "maintained mileage of county roads" and "miles of maintained county road" as those terms are used in Chapter 3 (commencing with Section 2100) of Division 3.

SEC. 152. Section 2007 of the Streets and Highways Code is amended to read:

2007. The road commissioner shall each year prepare a tentative road budget covering all proposed expenditures for the ensuing fiscal year for county road purposes. The road commissioner shall submit the budget to the board of supervisors in accordance with Chapter 1 (commencing with Section 29000) of Division 3 of Title 3 of the Government Code and in the form and manner prescribed by the Controller and at the same time as other county departments submit their recommended budgets.

The board of supervisors shall hold public hearings on the proposed road budget at the same time as the general county budget is considered and after like notice. In adopting the budget, the board may make such changes and revisions as it considers will subserve the public interest.

After adoption of the budget by the board of supervisors, the road commissioner shall not obligate or expend funds appropriated for county road purposes other than as set forth in the budget as adopted. However, the board of supervisors may, by appropriate action at any regular or special meeting, authorize the cancellation or transfer, in whole or in part, of any appropriation or appropriations set forth in the budget and reappropriate funds thus canceled for road purposes not set forth in the budget or to expenditure classifications insufficiently provided for where this action will best serve the interests of the people. Funds transferred pursuant to this section, or as authorized by the board of supervisors, shall immediately be made available for expenditure by the road commissioner for road purposes.

SEC. 153. Section 2110 of the Streets and Highways Code is amended to read:

2110. (a) The moneys payable to the counties under subdivision (b) of Section 2104 shall be apportioned monthly among the several counties as follows:

(1) A sum equal to the total of all reimbursable snow removal costs filed pursuant to subdivision (d) of Section 2152, or three million dollars ($3,000,000), whichever is less, shall be apportioned in 12 approximately equal monthly apportionments for snow removal on county roads as follows:

(2) If the total is less than three million dollars ($3,000,000), the full amount of reimbursable snow removal costs shall be apportioned to the several counties in an amount equal to that computed pursuant to the report filed by each county pursuant to subdivision (d) of Section 2152.

(3) If the total is three million dollars ($3,000,000) or more for the fiscal year, the Controller shall compute percentages for the apportionment of three million dollars ($3,000,000) to the several counties in the state for snow removal on county roads, including the purchase of snow removal equipment therefor, and shall apportion the amount to the counties in the computed percentages. The percentage each county is to be apportioned during the fiscal year shall be derived by adding its reimbursable snow removal expenditures for the three preceding fiscal years as to which the Controller has received snow removal expenditure reports pursuant to Section 2152, and dividing the sum by the total amount of reimbursable snow removal expenditures by all counties in the state during those fiscal years.

(b) On or before the first day of March of each year, the Controller shall notify each county of the amount apportioned to it pursuant to this section for expenditure for snow removal on county roads during the following fiscal year.

SEC. 154. Section 3012 of the Streets and Highways Code is amended to read:

3012. Any action, suit, or proceeding of any kind or nature in which the validity of any of the proceedings taken under this division is questioned or attacked, and any defense in the action, suit, or proceeding, shall be filed within 30 days after the date of the adoption of the resolution or ordinance finally acting on the investigation report or after the date of final action taken pursuant to Section 2804 or 2808 or Part 7 (commencing with Section 2950). If the action is not brought or a defense is not filed within those 30 days, then thereafter all persons shall be barred in any action, suit, or proceeding from pleading, asserting, or claiming that any of the proceedings up to and including the action on the investigation report, or other action specified in this section, were defective, faulty, or invalid in any respect.

SEC. 155. The heading of Chapter 3 (commencing with Section 6780) of Part 6 of Division 7 of the Streets and Highways Code is repealed.

SEC. 156. Section 19303 of the Streets and Highways Code is amended to read:

19303. If the certifying officer certifies that the petition bears the signatures of the owners of taxable property within the proposed zone representing 60 percent or more of the total assessed value of all taxable property in the zone, the petition shall be filed, and the board of supervisors shall fix a time for hearing the petition and the protests of interested parties, and shall cause a notice of the filing of

the petition and the time set for the hearing to be published pursuant to Section 6061 of the Government Code in a newspaper designated by the board as most likely to give notice to the inhabitants of the district and the proposed zone. If there is no such newspaper, copies of the notice shall be posted in three conspicuous places in the proposed zone to be annexed, for three weeks prior to the date fixed for hearing the petition. The notice shall contain the text of the petition, but the names of the signers of the petition need not be published. Notice given pursuant to this section is a sufficient compliance with Section 19211.

If the certifying officer's certificate shows that the petition does not bear the required number of signatures, the request for the formation of a temporary zone shall be denied, without prejudice to the filing of a new petition therefor, and the board of supervisors shall proceed to consider and act upon the petition as a petition filed pursuant to Chapter 9 (commencing with Section 19160) or Chapter 12 (commencing with Section 19210), as the case may be.

SEC. 157. The heading of Chapter 6 (commencing with Section 22675) of Part 2 of Division 15 of the Streets and Highways Code is repealed.

SEC. 158. Section 5310 of the Unemployment Insurance Code is amended to read:

5310. (a) Any party who disagrees with the hearing officer's decision may request a review of the decision by the appeals board within 10 days following the date on which the hearing officer's decision is mailed. A request for appellate review of the hearing officer's decision shall not stay implementation of the decision.

(b) Within 30 days after receipt of the request for review, the appeals board shall prepare a written decision either affirming or reversing the hearing officer's decision or it may remand the case to a hearing officer for further evidence. The decision shall be based on its review of the entire hearing record and any additional written evidence submitted or obtained in connection with its consideration of the appeal. However, in no case shall new evidence be admitted if it brings into question the validity or constitutionality of the applicable law. The decision shall state the findings of fact and conclusions of law and the reasons therefor. Copies of the decision shall be mailed to the individual, his or her authorized representative, if any, the department, the SAU, the regional coordination committee, and the National Review Panel. Instructions for appealing a decision to the National Review Panel and the rules under which it considers appeals shall be attached to the individual's copy of the decision.

(c) While reviewing a case, the appeals board may consider novel questions of law or policy or certify the case within five days after rendering its decision to the National Review Panel for review and decision.

(d) If a hearing officer's adverse decision is reversed on appellate

review, the individual shall be paid such retroactive WIN and welfare benefits as may be applicable and, where appropriate, shall be reinstated in the program.

SEC. 159. Section 9004 of the Unemployment Insurance Code is amended to read:

9004. Upon receipt of a formal ruling from the United States Secretary of Labor, the United States Secretary of Health and Human Services, or the head of any federal agency that any provision of Chapter 1206 of the Statutes of 1973 or Chapter 1212 of the Statutes of 1973 cannot be given effect without causing the state's plan to be out of conformity with federal requirements or would result in decertification of provisions of this code and notification of intention to withdraw federal funds from the state, that provision shall become inoperative to the extent that it is not in conformity with federal requirements.

SEC. 160. Section 10201 of the Unemployment Insurance Code is amended to read:

10201. As used in this chapter:

(a) "Employer" means any employer subject to Part 1 (commencing with Section 100) of Division 1, except any public entity, as defined by paragraph (3) of subdivision (a) of Section 135, and any nonprofit organization, as described in Section 608.

(b) "Eligible participant" means any person who, prior to beginning training or employment pursuant to this chapter, was either of the following:

(1) Unemployed and either receiving unemployment insurance benefits, or had exhausted eligibility for unemployment insurance benefits within the previous 52 weeks.

(2) Is employed but is determined by the panel to be likely to be displaced and therefore claiming unemployment insurance benefits.

(c) "Panel" means the Employment Training Panel created by Section 10202.

(d) "Fund" means the Employment Training Fund created by Section 1610.

(e) "Department" means the Employment Development Department.

(f) "Training agency" means any private training entity or local educational agency.

SEC. 161. Section 10206 of the Unemployment Insurance Code is amended to read:

10206. The panel may allocate money in the fund for any of the following purposes:

(a) Reimbursement of actual training costs incurred by employers and training agencies and for reasonable administrative costs.

(b) Costs of program administration incurred under this chapter. These costs shall be reviewed annually by the Department of Finance and the Legislature and determined through the normal budgetary process.

The panel's administrative costs exclusive of the cost of administering Section 976.6 shall not exceed more than 15 percent of the amount collected pursuant to Section 976.6. Expenditures for marketing and research provided under contract to the panel under subdivision (a) which otherwise would have been provided directly by the panel shall be included in this limitation.

(c) Costs of the Legislative Analyst's program evaluation conducted pursuant to Section 10216.

SEC. 162. Section 15050 of the Unemployment Insurance Code is amended to read:

15050. The Governor shall, after receiving the recommendation of the State Job Coordinating Council, designate directly or by contract the agency or agencies responsible for the provisions of this division.

The functions of the Governor's designee shall include all of the following:

(a) Overall direction, pursuant to the policies established by the state council of the statewide programs operated by service delivery areas under this division.

(b) Administration, either directly or by contract with another entity, of these statewide programs in service delivery areas that request the state to assume this function.

(c) Administration of special assistance programs to areas facing urgent employment and training needs that cross jurisdictional lines or result from major plant closures under Chapter 7.5 (commencing with Section 15075), arrival and resettlement of significant numbers of refugees, or comparable circumstances. Nothing in this section shall be construed as modifying the manner in which federal Office of Refugee Resettlement Funds are used in this state.

(d) The Employment Development Department shall be responsible for the administration of demonstration programs testing innovative approaches to assisting clients eligible under this division to find unsubsidized employment, which include, but are not limited to, any of the following:

(1) The Employment Preparation Program, as authorized by Article 3.5 (commencing with Section 11325) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(2) The Employment Training Program for unemployed parents in families that qualify for assistance under paragraph (2) of subdivision (a) of Section 11201 of the Welfare and Institutions Code, as authorized by Article 3.6 (commencing with Section 11335) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(3) The Supported Work Program, as authorized by Article 3.3 (commencing with Section 11321) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(4) The California Welfare Employment Skills Training Act, as authorized by Article 3.7 (commencing with Section 11340) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(5) The Youth Employment and Development Act, as authorized by Chapter 2.5 (commencing with Section 9800) of Division 3.

(6) The Regional Employment Assessment, Job Search Assistance, and Placement Services for Displaced Workers Act of 1982, as authorized by Chapter 2.9 (commencing with Section 9970) of Division 3.

To the extent feasible, in implementing demonstration programs designed for eventual merger into the statewide programs operated by the administrative entity in service delivery areas under this division, the Employment Development Department shall involve appropriate local agencies in program planning and operation within the demonstration sites. Once the demonstration programs are completed, if they have proven to be effective in achieving the intent and objectives of this division, the Employment Development Department shall take the steps necessary to ensure their implementation and integration wherever appropriate within the statewide employment and training programs operated by the administrative entity in the service delivery areas.

SEC. 163. Section 320 of the Vehicle Code is amended to read:

320. "Established place of business" is a place actually occupied either continuously or at regular periods by any of the following:

(a) A dealer, remanufacturer, remanufacturer branch, manufacturer, manufacturer branch, distributor, distributor branch, automobile driving school, or traffic violator school where the books and records pertinent to the type of business being conducted are kept.

(b) An automobile dismantler where the books and records pertinent to the type of business being conducted are kept. A place of business of an automobile dismantler which qualified as an "established place of business" before September 17, 1970, is an "established place of business" as defined in this section.

SEC. 164. Section 1670 is added to the Vehicle Code, to read:

1670. A licensee issued an occupational license by the department and conducting more than one type of business from an established place of business shall provide a clear physical division between the types of business involving vehicles or their component parts. The established place of business shall be open to inspection of the premises, pertinent records, and vehicles by any peace officer during business hours.

SEC. 165. Section 1671 is added to the Vehicle Code, to read:

1671. (a) The established place of business of a dealer, remanufacturer, remanufacturer branch, manufacturer, manufacturer branch, distributor, distributor branch, automobile driving school, or traffic violator school shall have an office and a dealer, manufacturer, or remanufacturer shall also have a display or manufacturing area situated on the same property where the business peculiar to the type of license issued by the department is or may be transacted. When a room or rooms in a hotel, rooming

house, apartment house building, or a part of any single- or multiple-unit dwelling house is used as an office or offices of an established place of business, the room or rooms shall be devoted exclusively to and occupied for the office or offices of the dealer, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, automobile driving school, or traffic violator school, shall be located on the ground floor, and shall be so constructed as to provide a direct entrance into the room or rooms from the exterior of the building. A dealer who does not offer vehicles for sale at retail, or a dealer who is a wholesaler involved for profit only in the sale of vehicles between licensed dealers, shall have an office, but a display area is not required.

(b) The established place of business of an automobile dismantler shall have an office and a dismantling area located in a zone property zoned for that purpose by the city or county.

SEC. 166. Section 34024 of the Vehicle Code is amended to read:

34024. The regulations adopted by the commissioner pursuant to this division shall be adopted, amended, and repealed in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 167. Section 35555 of the Vehicle Code, as amended by Chapter 270 of the Statutes of 1984, is amended to read:

35555. During the period commencing October 1 of each year and ending January 31 of the following year, the weight limitations of Section 35551 do not apply to any cotton module mover or any truck tractor pulling a semitrailer that is a cotton module mover, when operated as follows:

(a) Laterally across a state highway.

(b) Upon any county highway within the Counties of Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, San Benito, San Bernardino, and Tulare, except as prohibited or limited on county highways or portions thereof by resolution of the county board of supervisors having jurisdiction.

SEC. 168. The heading of Article 2 (commencing with Section 71630) of Chapter 2 of Part 5 of Division 20 of the Water Code is amended to read:

Article 2. Standby Charges

SEC. 169. Section 652.5 of the Welfare and Institutions Code, as added by Chapter 260 of the Statutes of 1984, is repealed. The repeal made by this section shall not affect the existence or validity of Section 652.5 of the Welfare and Institutions Code, as added by Chapter 1227 of the Statutes of 1984.

SEC. 170. Section 3154 of the Welfare and Institutions Code is amended to read:

3154. A person released in an outpatient status from the

California Rehabilitation Center may, with the approval of the Department of Corrections and the Narcotic Addict Evaluation Authority, voluntarily participate in a methadone maintenance project approved under Section 11876 of the Health and Safety Code.

Participation in a methadone maintenance project shall not be construed to break the abstention from the use of narcotics for the purpose of Section 3200.

SEC. 171. Section 3156 of the Welfare and Institutions Code is amended to read:

3156. (a) Any rules and regulations, including any resolutions and policy statements, promulgated by the authority, shall be promulgated and filed pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The authority shall maintain, publish, and make available to the general public, a compendium of its rules and regulations, including any resolutions and policy statements, promulgated pursuant to this section.

(c) The following exceptions to the procedures specified in this section apply to the authority: The chairman may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to that effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

SEC. 172. Section 3303 of the Welfare and Institutions Code is amended to read:

3303. (a) The Director of Corrections may prescribe and amend rules and regulations for the administration of the California Rehabilitation Center. These rules and regulations shall be promulgated and filed pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The director shall maintain, publish, and make available to the general public, a compendium of the rules and regulations promulgated by the director pursuant to this section.

(c) The following exceptions to the procedures specified in this section apply to the rules and regulations made by the director for the California Rehabilitation Center:

(1) The director may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to that effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

(2) The director may rely upon a summary of the information

compiled by a hearing officer; provided that the summary and the testimony taken regarding the proposed action shall be retained as part of the public record for at least one year after the adoption, amendment, or repeal.

SEC. 173. Section 3305 of the Welfare and Institutions Code is amended to read:

3305. The supervision, management and control of the California Rehabilitation Center and the responsibility for the care, custody, training, discipline, employment, and treatment of the persons confined in the center are vested in the Director of Corrections. Part 3 (commencing with Section 1999) of the Penal Code applies to the institution as a prison under the jurisdiction of the Department of Corrections and to the persons confined in the institution insofar as those provisions may be applicable.

SEC. 174. Section 4017 of the Welfare and Institutions Code is amended to read:

4017. The department shall have the authority to provide a county or combination of counties acting jointly with services described in Part 2 (commencing with Section 5600) of Division 5, pursuant to Section 5401.

SEC. 175. Section 3 of Chapter 757 of the Statutes of 1978 is repealed.

SEC. 176. Sections 164 and 165 of this act shall not become operative unless Section 163 of this act becomes operative and no other act prevails over this act with respect to Section 163 of this act during the 1985 calendar year.

SEC. 177. Any section of any act enacted by the Legislature during the 1985 calendar year, which takes effect on or before January 1, 1986, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to or subsequent to this act.

CHAPTER 107

An act to amend Sections 7587, 7588, 13332.04, and 16304.1 of the Government Code, to repeal Section 27 of Chapter 258 of the Statutes of 1984, and to make an appropriation in augmentation of Items 5180-111-001, 9840-001-001, 9840-001-494, 9840-001-988, and 9840-011-001 of the Budget Act of 1984, and Item 5180-111-001 of the Budget Act of 1985, relating to fiscal affairs, to take effect immediately, usual current expenses.

[Approved by Governor June 26, 1985. Filed with Secretary of State June 27, 1985]

I am reducing the General Fund appropriation contained in Assembly Bill No 1304 by $6,738,000 for the following reasons:

Commission on California State Government and Economy (Little Hoover Commission)

I previously vetoed funds for a 1984–85 study of pesticide regulations by the Commission on California State Government Organization and Economy (Little Hoover Commission) because extensive studies have previously been made. The Commission, however, chose to conduct the study and now seeks funding of $20,000 to cover their costs. In view of my previous action on this specific issue, the appropriation of $20,000 is not appropriate and the Commission should be required to absorb as much of the cost as possible It is my understanding that the Commission will need only $5,000 and can absorb the remaining amount. For this reason I am reducing this appropriation from $20,000 to $5,000

Department of Social Services - In-Home Supportive Services (IHSS) Program

I have already signed AB 1470 (Chapter 86) which provides the necessary funding for the IHSS Program I have retained $540,000 of the appropriation contained in the bill for this program. This amount will offset a technical error that was made in an earlier version of this bill and will provide funding for the programs as proposed by the Administration and accepted by the Legislature

Department of Education - Gifted and Talented Education (GATE) Program

Education Code Section 52211 provides for apportioning shortfalls which may occur in this program I have reduced the appropriation by $295,000 which will allow the provision of Education Code 52211 to be put in place.

I am also eliminating the language contained in Section 13332 04(c) of the Government Code added by this bill because it is an infringement on the separation of powers in that it usurps Executive Branch authority to effectively administer State Government I am opposed to the language which requires the Department of Finance to submit budget planning data to the Legislature during the Budget preparation process Such data has always been confidential information because they are an integral part of the development of the Governor's Budget and should remain confidential until the decision process to which they relate is completed with the presentation of the Budget to the Legislature

With these reductions and deletions, I approve Assembly Bill No. 1304

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Section 7587 of the Government Code is amended to read:

7587. By July 1, 1986, each state department named in this chapter shall develop regulations, as necessary, for the department

or designated local agency to implement this act. All regulations shall be reviewed and approved by the Superintendent of Public Instruction prior to filing with the Office of Administrative Law, in order to ensure consistency with federal and state laws and regulations governing the education of handicapped children.

SEC. 2. Section 7588 of the Government Code is amended to read:

7588. This chapter shall become operative on July 1, 1986, except Section 7583, which shall become operative on January 1, 1985.

SEC. 3. Section 13332.04 of the Government Code is amended to read:

13332.04. (a) Approval by the Department of Finance to the creation of deficiencies pursuant to Section 11006 or approval to expend at rates which, in the opinion of the Director of Finance, will require a deficiency appropriation shall not be made unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations not later than 30 days prior to the effective date of the approval, except for an approval for an emergency expenditure or an approval which is due to caseload increases in Medi-Cal, subsistence grants, developmental services, state mental hospitals, California Children's Services, or youth or adult correctional facilities, or an approval which is due to increased enrollments in local school districts, the University of California, or the California State University, or an approval which is due to increased claims for tax relief or unemployment insurance and disability insurance. All notifications shall include: (1) the date a deficiency request is received by the Department of Finance; (2) the reason for the proposed deficiency; and (3) the approved amount.

(b) Approval for an emergency expenditure shall be made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations not later than 10 days after the effective date of the approval. All notices shall state the reason for and amount of the deficiency.

As used in this section, "emergency expenditure" means a proposed expenditure arising from unexpected conditions or losses for which no appropriation, or insufficient appropriation, has been made by law and which, in the judgment of the Director of Finance, requires immediate action to avert undesirable consequences or to preserve the public peace, health, or safety.

(c) In order for the Legislature to adequately plan for current and budget year expenditures, prior to October 1, 1985, the Department of Finance shall provide to the Chairpersons of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations the planning data for each department for the 1985–86 and 1986–87 fiscal years.

(d) The Department of Finance shall report quarterly to the

Chairpersons of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations on the cumulative deficiency requests approved pursuant to subdivisions (a) and (b). The report shall contain the information required in provisions (1), (2), and (3) of subdivision (a). This report shall be filed within 15 days after the close of each fiscal quarter.

(e) The Department of Finance shall provide copies of all requests from agencies to spend at rates which would result in a deficiency appropriation to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations. The department shall submit these copies within 10 days of receipt. The transmittal of this information to the Legislature shall not be construed by the requesting agency as approval of the deficiency request.

SEC. 4. Section 16304.1 of the Government Code is amended to read:

16304.1. Disbursements in liquidation of encumbrances may be made before or during the two years following the last day an appropriation is available for encumbrance, except in the case of a fund made up of federal funds. Disbursements in liquidation of encumbrances may be made before or during the four years following the last day an appropriation of federal funds is available for encumbrance. Whenever, during either liquidation period, the Director of Finance determines that the project for which the appropriation was made is completed and that a portion of the appropriation is not necessary for disbursements, such portion shall, upon order of the Director of Finance, revert to and become a part of the fund from which the appropriation was made. Upon the expiration of two years, or four years in the case of a fund made up of federal funds, following the last day of the period of its availability, the undisbursed balance in any appropriation shall revert to and become a part of the fund from which the appropriation was made. Subsequent to reversion any unpaid encumbrance against the appropriation may be paid, with approval of the Board of Control, from any current appropriations available for the same purposes.

To the extent that appropriations are exempt from limitations as to periods of availability under Section 16304, they shall not be subject to the provisions of this section.

SEC. 5. Section 27.00 of Chapter 258 of the Statutes of 1984 is repealed.

SEC. 6. The sum of four hundred fifty-two million eight hundred sixty-nine thousand dollars ($452,869,000) is hereby appropriated in accordance with the following schedule:

(a) Four hundred forty-six million five hundred eighty-seven thousand seven hundred nine dollars ($446,587,709) is appropriated for expenditure in the 1984–85 fiscal year in augmentation of, and for the purposes of contingencies or emergencies as provided in, Items 9840-001-001, 9840-001-494,, and 9840-011-001 of the Budget Act of

1984 as follows:

(1) From the General Fund to the reserve for contingencies or emergencies in Item 9840-001-001	$422,349,709
(2) From special funds to the reserve for contingencies or emergencies in Item 9840-001-494	$20,803,000
(3) From nongovernmental cost funds to the reserve for contingencies or emergencies in Item 9840-001-988	$3,435,000
(4) From the General Fund to the reserve for contingencies or emergencies (loans) in Item 9840-011-001	($2,000,000)

(b) Six million two hundred eighty-one thousand two hundred ninety-one dollars ($6,281,291) is appropriated from the Federal Revenue Sharing Fund to the General Fund, for transfer by the Controller to Item 5180-111-001 of the Budget Act of 1984, in augmentation of the state's share of the State Supplementary Payment Program for aged, blind, and disabled persons. The appropriation contained in this subdivision shall be expended prior to the expenditure of funds appropriated by subdivision (a) for the same purpose.

(c) Of the amount appropriated in paragraph (1) of subdivision (a), twenty-one million eight hundred thousand dollars ($21,800,000) is for allocation by the Controller in the form of a loan to special districts for shortfalls in funding received through the supplemental roll tax revenues during the 1984–85 fiscal year. The amount allocated to a special district by the Controller shall be in accordance with the provisions of Section 16111.5 of the Government Code. The amount loaned to any special district for the 1984–85 fiscal year shall be repaid to the Controller by the special district from proceeds it receives from the supplemental roll tax revenues attributable to the 1984–85 fiscal year after June 30, 1985.

(d) Notwithstanding any other provision of law, inasmuch as any special district has not repaid a loan obtained pursuant to subdivision (c) and the district has received supplemental property tax revenues attributable to the 1984–85 fiscal year after June 30, 1985, the Controller shall withhold from that district the amount of revenue received after June 30, 1985, that is attributable to the 1984–85 fiscal year from the reimbursement for revenue lost by reason of the homeowners' property tax exemption until the loan is repaid in full.

(e) It is the intent of the Legislature that the loans to special districts for shortfalls in supplemental property tax revenues be provided on a one-time-only basis and, if shortfalls occur in subsequent years, the shortfall shall be financed through other revenue sources available to special districts.

SEC. 7. The Director of Finance may withhold authorization for

expenditure of funds provided in subdivision (a) of Section 6 until such time and to the extent that preliminary estimates of potential deficiencies are verified.

SEC. 8. Any balance in the Federal Revenue Sharing Fund after June 30, 1985, including interest earnings, is hereby appropriated from the Federal Revenue Sharing Fund to the General Fund, for transfer by the Controller to Item 5180-111-001 of the Budget Act of 1985, in augmentation of the state's share of the State Supplementary Payment Program for aged, blind, and disabled persons during the 1985–86 fiscal year. Any funds transferred and expended pursuant to this section shall be expended prior to the expenditure of funds appropriated by Item 5180-111-001 of the Budget Act of 1985 and in the month following any such credit to the Federal Revenue Sharing Fund.

SEC. 9. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 108

An act to amend Sections 17052.5, 17052.8, 23601, and 23601.5 of the Revenue and Taxation Code, and to amend Item 9100-101-001 of Section 2.00 of the Budget Act of 1985, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor June 26, 1985. Filed with Secretary of State June 28, 1985.]

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

SECTION 1. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039), an amount equal to the amount determined in paragraph (2), (3), or (6).

(2) Except as provided in subparagraph (A), the amount of the credit allowed by this section shall be 55 percent of the cost (as defined in subdivision (h)) 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. For any such solar energy system installed on dwellings, including multifamily dwellings, on or after August 1, 1983, and before August 1, 1985, the percentage specified by this paragraph, subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (g) shall be 50 percent, and the credit shall not exceed three thousand dollars ($3,000) per solar energy system as defined in subdivision (h). For any such solar energy system installed on dwellings, excluding multifamily dwellings on or after August 1, 1985, the percentage specified by this paragraph,

subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (g) shall be 10 percent and the credit shall not exceed one thousand dollars ($1,000) per solar energy system as defined in subdivision (h).

(A) Only the owner of the premises (as defined in subdivision (h)) 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 single-family dwellings may elect not to claim the solar energy tax credit for any or all systems installed on new single-family 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 single-family dwelling on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any system installed prior to August 1, 1985, for which the federal credit is allowed, the credit shall be equal to 15 percent of the cost of these systems. If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any other installations made prior to August 1, 1985, which qualify for this credit, the credit shall be as defined in paragraph (2).

(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 single-family dwelling on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the single-family 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 on the basis of the formula in this paragraph, so long as the total amount of the credit claimed does not exceed three thousand dollars ($3,000) per system for installations made on or before July 31, 1985, and one thousand dollars ($1,000) per system for installations made on or after August 1, 1985.

(3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings and those multifamily dwellings on which systems are installed before August 1, 1985, the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in subdivision (h)) of the solar energy system, except for wind energy systems installed on or after January 1, 1986, for which the credit shall be 15 percent of the cost. This paragraph shall apply to solar energy systems installed on multifamily dwellings

on or after August 1, 1985.

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 system 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. This paragraph shall not apply to systems installed on or after August 1, 1985.

(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 lease a solar energy system installed on premises in California owned by the taxpayer shall receive a tax credit as provided in subparagraph (A) or (B) provided the lessee can confirm, if necessary, by a written document signed by the lessor that (i) the lessor irrevocably elects not to claim a state tax credit for the solar energy system, and (ii) if the system is installed in a locality served by a municipal solar utility, that the lessor holds a valid permit from the municipal solar utility. Leasing requirements may be established by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(A) Except as provided in subparagraph (B), the credit shall equal 55 percent of the cost (as defined in subdivision (h)) of the

purchased portion, and 55 percent of the principal recovery portion (as defined in subdivision (h)) of the lease payments for the term of the lease, not to exceed 10 years. That credit shall not exceed three thousand dollars ($3,000) for each system installed on or before July 31, 1985, and one thousand dollars ($1,000) for each system installed on or after August 1, 1985. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year. For any solar energy system installed on or after August 1, 1983, and on or before July 31, 1985, the percentage specified by this subparagraph shall be 50 percent. For any solar energy system installed on dwellings, exclusive of multifamily dwellings, on or after August 1, 1985, the percentage specified by this subparagraph shall be 10 percent.

(B) In the case of premises other than single-family dwellings and those multifamily dwellings on which systems are installed before August 1, 1985, the credit shall equal 25 percent of the cost (as defined in subdivision (h)) of the purchased portion and 25 percent of the principal recovery portion (as defined in subdivision (h)) of the lease payments for the term of the lease, not to exceed 10 years. This subparagraph shall apply to systems installed on multifamily dwellings on and after August 1, 1985. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year.

(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.

(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 agency 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.

(d) 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.

(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 the "net tax" may be carried over to the "net tax" in succeeding taxable years, until the credit is used. The credit shall be

applied first to the earliest years possible. With respect to solar energy systems installed before January 1, 1985, where the credit allowed exceeds the taxpayer's net tax for the taxable year in which the system was installed, no excess portion of the credit shall be applied against the taxpayer's "net tax" for the 1985 taxable year and no more than one-third of the excess portion of the credit shall be applied against the taxpayer's "net tax" for each of the 1986, 1987, and 1988 taxable years. For the 1989 taxable year and taxable years thereafter, any remaining excess credit may be applied and carried forward without restriction. With regard to wind energy systems purchased and installed on or after August 1, 1985, and on or before December 31, 1985, no more than one-third of the allowable credit under this section shall be applied against the taxpayer's "net tax" for each of the 1985, 1986, and 1987 taxable years. Any credit remaining after the 1987 taxable year shall be applied and carried forward without restriction. However, the full credit allowed under this section for wind energy systems may be applied against the taxpayer's "net tax" for the 1985 taxable year if (i) a written binding contract to purchase the primary components of a system is entered into by the taxpayer or any other party before August 1, 1985, and (ii) the system is installed on or before December 31, 1985. With regard to wind energy systems installed on or after January 1, 1986, no more than one-third of the allowable credit under this section shall be applied against the taxpayer's "net tax" for each of the taxpayer's 1986, 1987, and 1988 taxable years. Any credit remaining after the 1988 taxable year shall be applied and carried forward without restriction.

(f) 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. These 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.

(g) To the extent that federal energy tax credits are allowed or allowable for costs incurred by a taxpayer for the purchase and installation of 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) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of these costs, notwithstanding the carryover provisions of subdivision (e). For any solar energy system installed on or after August 1, 1983, and on or before July 31, 1985, the percentage specified by this subdivision shall be 50 percent. This subdivision shall not apply to solar energy systems installed on or after August 1, 1985.

(h) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Cost" includes all of the following:

(A) Equipment and installation charges.

(B) 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 this easement.

(C) In the case of a system which is leased, the principal recovery portion of lease payments, which is the cost incurred by the taxpayer in acquiring the solar energy system excluding interest charges and maintenance expenses.

"Cost" does not include interest charges and costs associated with the acquisition of an easement other than a solar easement.

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease or easement granting use of the premises, 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 system is installed for direct use or for purposes of sale of energy, and includes land, easements, buildings or portions thereof, and mobilehomes.

(5) "Dwelling" means a building, or portion thereof, used for residential purposes, and includes each of the following:

(A) "Single-family dwelling" means single-family residences, mobilehomes, and the individual units of condominiums.

(B) "Multifamily dwelling" means cooperatives, apartment buildings, or other similar multiple dwellings.

(6) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic or service water heating.

(ii) Space conditioning.

(iii) Production of electricity.

(iv) Process heat.

(v) Solar mechanical energy.

(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, conversion, 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 or commercial 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 structural elements of a building and is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.

(11) "Municipal solar utility" means a city, county, or municipal utility district, or agency thereof, which sells or leases solar or other energy generating equipment or energy saving devices for residential, commercial, agricultural, or industrial uses or which issues permits to companies engaged in the leasing of this equipment.

(i) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17250. 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.

(j) 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.

(k) This section shall remain in effect only until January 1, 1987, and on that date is repealed, unless a later enacted statute, which is chaptered before this date, deletes or extends the date. However, any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1987.

(*l*) Notwithstanding the provisions of subdivision (k), a taxpayer or any other party who has undertaken significant construction or expenditures associated with the acquisition or installation of a solar energy system on or before October 31, 1986, shall be eligible for the tax credit authorized by this section in the taxable year in which the system is installed if the installation is completed on or before June 30, 1987.

For purposes of this section, "significant construction or expenditures associated with the acquisition or installation of a solar energy system" requires the completion of at least two of the following:

(*i*) The placement of at least 50 percent of the funds necessary for project completion in an escrow account. Funds placed in escrow may include funds borrowed pursuant to a construction loan or other

debt arrangement.

(ii) The payment of all necessary earnest money required to maintain interconnection priority with a purchasing utility and the receipt of all required building permits or zoning approval, such as a conditional use permit.

(iii) The signing of a binding agreement (such as a lease, easement, or purchase agreement) for the land necessary for the solar energy system and the signing of a binding agreement for major solar energy production equipment purchases necessary for the solar energy system.

SEC. 2. Section 17052.8 of the Revenue and Taxation Code is amended to read:

17052.8. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039, an amount equal to the amount determined in paragraph (2), (3), or (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. For energy conservation measures which are installed on or after August 1, 1983, and before August 1, 1985, including measures installed on multifamily dwellings before August 1, 1985, the percentage specified in the preceding sentence shall be 35 percent, and the credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. For energy conservation measures which are installed on or after August 1, 1985, excluding measures installed on multifamily dwellings on or after August 1, 1985, the percentage specified in the preceding sentence shall be 10 percent, and the credit shall not exceed seven hundred fifty dollars ($750) for each premises. The owner of the premises on which the energy conservation measures are 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 energy conservation tax credit for any or all energy conservation measures installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are 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.

The energy conservation tax credit shall be claimed in the state income tax return for the taxable year in which the energy conservation measures were installed. However, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new single-family dwelling on which the energy conservation measures are 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 single-family dwelling.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that tax year.

(3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings and those multifamily dwellings on which measures are installed before August 1, 1985, the amount of the credit allowed by this section which is applicable to installations of measures made prior to August 1, 1985, shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measures. With regard to premises in California which are owned by the taxpayer, other than single-family dwellings, the amount of the credit allowed by this section which is applicable to installations made on or after January 1, 1986, shall be 20 percent of the cost, as defined in paragraph (7) of the energy conservation measures.

(4) If energy conservation measures serve two or more dwelling units, 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 energy conservation measures by the number of dwelling units served by the energy conservation measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost. This paragraph shall not apply to energy conservation measures installed on or after August 1, 1985.

(5) Taxpayers who partially own and partially lease on premises in California which are owned by the taxpayer energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7)) of the purchased portion and 40 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 energy conservation tax credit terminates, whichever occurs first. For energy conservation measures which are installed on dwellings, including multifamily dwellings, on or after August 1, 1983, and on or before July 31, 1985, the percentage specified in the preceding sentence shall be 35 percent and the credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. For energy conservation measures which are installed on premises, excluding multifamily dwellings, on or after August 1, 1985, the percentage specified in the preceding sentence shall be 10 percent , and the credit shall not exceed seven hundred fifty dollars ($750) for each premises. In any one year, the tax credit shall apply only to the principal recovery portion of the lease payments made during that

year and to amounts expended on the purchased portion of the measure (including installation charges) during that year.

(B) In the case of premises, other than single-family dwellings and those multifamily dwellings on which measures are installed before August 1, 1985, the credit provided by this paragraph for installation of measures made before August 1, 1985, 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 energy conservation tax credit terminates, whichever occurs first. In the case of premises, other than single-family dwellings, the credit provided by this paragraph for installations of measures made on or after January 1, 1986, shall equal 20 percent of the cost (as defined in paragraph (7)) of the purchased portion and 20 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payment for the first three years of operation or until the credit terminates, whichever occurs first. In any one year, the tax credit shall apply only to the principal recovery portion of the lease payments made during that year and to amounts expended on the purchased portion of the measure (including installation charges) during that year.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purpose of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are 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 energy conservation measures, but does not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any energy conservation measure for which a credit is allowed shall be reduced by the amount of the credit. 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 energy conservation measures are installed, each owner shall be eligible to receive the energy conservation tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the energy conservation 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) 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, provided that no excess portion of the allowable credit available with respect to measures installed before January 1, 1985, shall be applied against the taxpayer's "net tax" for the 1985 taxable year and no more than one-third of the allowable excess portion of the credit shall be applied against the taxpayer's "net tax" for each of the taxpayer's 1986, 1987, and 1988 taxable years. For the 1989 taxable year and taxable years thereafter, any unused portion of the credit shall be applied and carried forward without restriction.

(e) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(f) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed either 40 percent of the cost for measures installed on or before July 31, 1983, or 35 percent of the costs for measures installed on or after August 1, 1983, and on or before July 31, 1985, notwithstanding the carryover provisions of subdivision (e). This paragraph shall not apply to measures installed on or after August 1, 1985.

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent the credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (3) of subdivision (a), for measures installed prior to August 1, 1985, shall be reduced by the amount of the federal credit. This paragraph shall not apply to measures installed on or after August 1, 1985.

(g) For purposes 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 land, buildings, or portions thereof, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes each of the following:

(A) "Single-family dwelling" means single-family residences, mobilehomes, and individual units of condominiums.

(B) "Multifamily dwelling" means cooperatives, apartment buildings, or other similar multiple dwellings.

(5) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (f):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Wall insulation.

(H) Floor insulation in premises with electrical resistance heating.

(I) Ventilation cooling fans, attic ventilators, and economizer systems.

(J) Heat pumps and water heating heat pumps (including those which use air, water, or earth as a source or sink of heat) which replace electric resistance heaters or are used in conjunction with a solar energy system.

(K) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(L) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of the operational California plan approved in 1983 pursuant to Section 456.204 of Title 10 of the Code of Federal

Regulations and maintained under the authority of this section until December 31, 1985, or an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling.

(iv) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(v) Floor insulation except as specified in subparagraph (H).

(M) For existing dwellings where there is no operational Residential Conservation Service (RCS) Plan certified in accordance with this section or in regions where such a plan does not provide energy audits, and for premises other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling, and glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(v) Floor insulation, except as specified in subparagraph (H).

(N) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Evaporative coolers.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Floor insulation.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), (F), and (K) installed in any premises shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1986.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), (J), (L), (M), and (N) installed on single-family dwellings shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1985. State agencies shall ensure that taxpayers may qualify for a tax credit under the provisions of subparagraph (L) until the termination date specified in this paragraph.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), (J), and (M) installed on premises, other than single-family dwellings, shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1986.

(6) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(7) "Operational Residential Conservation Service Plan" means the operational California plan approved in 1983 pursuant to Section 456.204 of Title 10 of the Code of Federal Regulations and maintained under the authority of this section until December 31, 1985, or a Residential Conservation Service (RCS) Plan, developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), and which provides energy audits for measures identified in this section in accordance with the requirements of such an RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(h) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17253. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of

the amount of the tax credit claimed under this section.

(i) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was installed or for any prior taxable year.

(j) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(k) (1) Except as provided in paragraph (2) of this subdivision, the tax credit provided by this section shall not apply to energy conservation measures required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (K) of paragraph (5) of subdivision (g).

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 that date, deletes or extends that date.

SEC. 3. 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 (A), the amount of the credit allowed by this section shall be 55 percent of the cost (as defined in subdivision (f)) 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. For any such solar energy system installed on dwellings, including multifamily dwellings, on or after August 1, 1983, and before August 1, 1985, the percentage specified by this paragraph, subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (e) shall be 50 percent, and the credit shall not exceed three thousand dollars ($3,000) per solar energy system as defined in subdivision (f). For any such solar energy system installed on single-family dwellings, on or after August 1, 1985, the percentage specified by this paragraph, subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (e) shall be 10 percent, and the credit shall not exceed one thousand dollars ($1,000) per solar energy system as defined in subdivision (f).

(A) Only the owner of the premises (as defined in subdivision (f)) 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 single-family dwellings may elect not to claim the solar energy tax credit for any or all systems installed on new single-family 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 single-family dwelling on which the system is installed may claim the credit provided that the purchaser can confirm the election if necessary, by a written document signed by

the owner-builder or owner-developer.

If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any system installed prior to August 1, 1985, for which the federal credit is allowed, the credit shall be equal to 15 percent of the cost of these systems. If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any other installations made prior to August 1, 1985, which qualify for this credit, the credit shall be as defined in paragraph (2).

(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 single-family dwelling on which the system is installed may claim the credit for the year during which the purchaser's escrow closed or the year during which the purchaser acquired legal title to the single-family 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 does not exceed three thousand dollars ($3,000) per system for installations made on or before July 31, 1985, and one thousand dollars ($1,000) per system for installations made on or after August 1, 1985.

(3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings and those multifamily dwellings on which systems are installed before August 1, 1985, the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in subdivision (f)) of the solar energy system, except for wind energy systems installed on or after January 1, 1986, for which the credit shall be 15 percent of the cost. This paragraph shall apply to solar energy systems installed on multifamily dwellings on or after August 1, 1985.

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 system 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. This paragraph shall not apply to systems installed on or after August 1, 1985.

(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 lease a solar energy system installed on premises in California owned by the taxpayer shall receive a tax credit as provided in subparagraph (A) or (B) provided that the lessee can confirm, if necessary, by a written document signed by the lessor that (i) the lessor irrevocably elects not to claim a state tax credit for the solar energy system, and (ii) if the system is installed in a locality served by a municipal solar utility, that the lessor holds a valid permit from the municipal solar utility. Leasing requirements may be established by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(A) Except as provided in subparagraph (B), the credit shall equal 55 percent of the cost (as defined in subdivision (f)) of the purchased portion, and 55 percent of the principal recovery portion (as defined in subdivision (f)) of the lease payments for the term of the lease, not to exceed 10 years. That credit shall not exceed three thousand dollars ($3,000) for each system installed on or before July 31, 1985, and one thousand dollars ($1,000) for each system installed on or after August 1, 1985. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchases portion of the solar energy system (including installation charges) during that year. For any solar energy system installed on or after August 1, 1983, and on or before July 31, 1985, the percentage specified by this subparagraph shall be 50 percent. For any solar energy system installed on single-family dwellings on or after August 1, 1985, the percentage specified by this subparagraph shall be 10 percent.

(B) In the case of premises other than single-family dwellings and

those multifamily dwellings on which systems are installed before August 1, 1985, the credit shall equal 25 percent of the cost (as defined in subdivision (f)) of the purchased portion and 25 percent of the principal recovery portion (as defined in subdivision (f)) of the lease payments for the term of the lease, not to exceed 10 years. This subparagraph shall apply to systems installed on multifamily dwellings on or after August 1, 1985. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year.

(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 agency 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 grant provided by a utility or public agency 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 the credit is used. The credit shall be applied first to the earliest years possible. With respect to solar energy systems installed before January 1, 1985, where the credit allowed exceeds the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year in which the system was installed, no excess portion of the credit shall be applied against the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the 1985 income year and no more than one-third of the excess portion of the credit shall be applied against the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for each of the 1986, 1987, and 1988 income years. For the 1989 income year and income years thereafter, any remaining excess credit may be applied and carried forward without restriction. With regard to wind energy systems purchased and installed on or after August 1, 1985, and on or before December 31, 1985, no more than one-third of the allowable credit under this section shall be applied against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for each of the 1985, 1986, and 1987 income years. Any credit remaining after the 1987 taxable year shall be applied and carried forward

without restriction. However, the full credit allowed under this section for wind energy systems may be applied against the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the 1985 income year if (i) a written binding contract to purchase the primary components of a system is entered into by the taxpayer or any other party before August 1, 1985, and (ii) the system is installed on or before December 31, 1985. With regard to wind energy systems installed on or after January 1, 1986, no more than one-third of the allowable credit under this section shall be applied against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for each of the 1986, 1987, and 1988 income years. Any credit remaining after the 1988 income year may be applied and carried forward without restriction.

(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. These 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 or lease 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). For any solar energy system installed on or after August 1, 1983, and before August 1, 1985, the percentage specified by this subdivision shall be 50 percent. This subdivision shall not apply to solar energy systems installed on or after August 1, 1985.

(f) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Cost" includes equipment and installation charges, but shall exclude interest charges. In the case of a system which is leased, "cost" means the principal recovery portion of lease payments which is the cost incurred by the taxpayer in acquiring the solar energy system, but excluding interest charges and maintenance expenses.

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease or easement granting use of the premises, 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 system is installed for direct use or for purposes of sale of energy, and includes land, easements, buildings or portions thereof, and mobilehomes.

(5) "Dwelling" means a building, or portion thereof, used for residential purposes, and includes each of the following:

(A) "Single-family dwelling" means single-family residences, mobilehomes, and the individual units of condominiums.

(B) "Multifamily dwelling" means cooperatives, apartment buildings, or other similar multiple dwellings.

(6) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic or service water heating.

(ii) Space conditioning.

(iii) Production of electricity.

(iv) Process heat.

(v) Solar mechanical energy.

(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, conversion, 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 or commercial 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 structural elements of a building and is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.

(11) "Municipal solar utility" means a city, county, or municipal utility district, or agency thereof, which sells or leases solar or other energy generating equipment or energy saving devices for residential, commercial, agricultural, or industrial uses, or which issues permits to companies engaged in the leasing of this

equipment.

(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) This section shall remain in effect only until January 1, 1987, and on that date is repealed, unless a later enacted statute, which is chaptered before this date, deletes or extends the date. However, any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1987.

(j) Notwithstanding the provisions of subdivision (i), a taxpayer or any other party who has undertaken significant construction or expenditures associated with the acquisition or installation of a solar energy system on or before October 31, 1986, shall be eligible for the tax credit authorized by this section in the income year in which the system is installed if the installation is completed on or before June 30, 1987.

For purposes of this section, "significant construction or expenditures associated with the acquisition or installation of a solar energy system" requires the completion of at least two of the following:

(i) The placement of at least 50 percent of the funds necessary for project completion in an escrow account. Funds placed in escrow may include funds borrowed pursuant to a construction loan or other debt arrangement.

(ii) The payment of all necessary earnest money required to maintain interconnection priority with a purchasing utility and the receipt of all required building permits or zoning approval, such as a conditional use permit.

(iii) The signing of a binding agreement (such as a lease, easement, or purchase agreement) for the land necessary for the solar energy system and the signing of a binding agreement for major energy production equipment purchases necessary for the solar energy system.

SEC. 4. Section 23601.5 of the Revenue and Taxation Code is amended to read:

23601.5. (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 (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy

conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. For energy conservation measures which are installed on or after August 1, 1983, and before August 1, 1985, including measures installed on multifamily dwelling units before August 1, 1985, the percentage specified in the preceding sentence shall be 35 percent (in lieu of 40 percent) and the credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. For energy conservation measures installed on or after August 1, 1985, excluding measures installed on multifamily dwellings on or after August 1, 1985, the percentage specified in the preceding sentence shall be 10 percent, and the credit shall not exceed seven hundred fifty dollars ($750) for each premises. The owner of the premises on which the energy conservation measures are installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new single-family dwellings may elect not to claim the energy conservation tax credit for any or all measures installed on new single-family dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new single-family dwelling on which the measures are 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.

The energy conservation tax credit shall be claimed in the state return for the income year in which the energy conservation measures were installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new single-family dwelling on which the measures are 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 new single-family dwelling.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the year in which the energy conservation measures were installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that year.

(3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings and those multifamily dwellings on which measures are installed before August 1, 1985, the amount of the credit allowed by this section which is applicable to installations of measures made prior to August 1, 1985, shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measure. With regard to premises in California which are owned by the taxpayer, other than single-family dwellings, the amount of the credit allowed by this section which is applicable to installations made on or after January 1, 1986, shall be 20 percent of the cost (as defined in paragraph (7)) of the energy conservation measure.

(4) If energy conservation measures serve two or more dwelling units, 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 energy conservation measures by the number of dwelling units served by the measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost. This paragraph shall not apply to energy conservation measures installed on or after August 1, 1985.

(5) Taxpayers who partially own and partially lease on premises in California which are owned by the taxpayer energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7) of the purchased portion and 40 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 energy conservation tax credit terminates, whichever occurs first. For energy conservation measures which are installed on dwellings, including multifamily dwellings, on or after August 1, 1983, and on or before July 31, 1985, the percentage specified in the preceding sentence shall be 35 percent and the credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. For energy conservation measures which are installed on dwellings, excluding multifamily dwellings, on or after August 1, 1985, the percentage specified in the preceding sentence shall be 10 percent and the credit shall not exceed seven hundred fifty dollars ($750) for each premises. In any one year, the tax credit shall apply only to the principal recovery portion of the lease payments made during that year and to amounts expended on the purchased portion of the measure (including installation charges) during that year.

(B) In the case of premises, other than single-family dwellings and those multifamily dwellings on which measures are installed before August 1, 1985, the credit provided by this paragraph for installation of measures made before August 1, 1985, 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 energy conservation tax credit terminates, whichever occurs first. In the case of premises, other than single-family dwellings, the credit provided by this paragraph for installations of measures made on or after January 1, 1986, shall equal 20 percent of the cost (as defined in paragraph (7)) of the purchased portion and 20 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 credit terminates, whichever occurs first. In any one year, the tax credit shall apply only to the principal recovery portion of the lease payments made during that year and to amounts expended on

the purchased portion of the measure (including installation charges) during that year.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purpose of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are 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 energy conservation measures 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. The basis adjustment shall be made for the income year for which the credit is allowed.

In the case of a partnership, the energy conservation 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, provided that no excess portion of the allowable credit available with respect to measures installed before January 1, 1985, is applied against the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the 1985 income year and no more than one-third of the excess portion of the credit is applied against the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for each of the taxpayer's 1986, 1987, and 1988 income years. For the 1989 income year and income years thereafter, any unused portion of credit shall be applied and carried forward without restriction.

(d) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations

adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(e) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed either 40 percent of the costs for measures installed on or before July 31, 1983, or 35 percent of the costs for measures installed on or after August 1, 1983, and on or before July 31, 1985, notwithstanding the carryover provisions of subdivision (c). This paragraph shall not apply to measures installed on or after August 1, 1985.

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent the credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (3) of subdivision (a) for measures installed prior to August 1, 1985, shall be reduced by the amount of such federal credit. This paragraph shall not apply to measures installed on or after August 1, 1985.

(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 land, buildings or portions thereof, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes each of the following:

(A) "Single-family dwelling" means single-family residences, mobilehomes, and individual units of condominiums.

(B) "Multifamily dwelling" means cooperatives, apartment buildings, or other similar multiple dwellings.

(5) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (d):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to

unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Wall insulation.

(H) Floor insulation in premises with electrical resistence heating.

(I) Ventilation cooling fans; attic ventilators, and economizer systems.

(J) Heat pumps and water heating heat pumps (including those which use air, water, or earth as a source or sink of heat) which replace electric resistance heaters or are used in conjunction with a solar energy system.

(K) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(L) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of the operational California plan approved in 1983 pursuant to Section 456.024 of Title 10 of the Code of Federal Regulations and maintained under the authority of this section until December 31, 1985, or an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the opening of heating and cooling systems which achieve increased efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling.

(iv) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(v) Floor insulation, except as specified in subparagraph (H).

(M) For existing dwellings where there is no operational

Residential Conservation Service (RCS) Plan certified in accordance with this section or in regions where such a plan does not provide energy audits, and for premises other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed window and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes which substantially reduce the energy needed for space heating and cooling, and glazing material (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(v) Floor insulation, except as specified in subparagraph (H).

(N) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Evaporative coolers.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Floor insulation.

Energy conservation measures in the generic categories of subparagraph (A), (B), (C), (D), (E), (F), and (K) installed in any premises shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1986.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), (J), (L), (M), and (N) installed on single-family dwellings shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1985. State agencies shall ensure that taxpayers may qualify for a tax credit under the provisions of subparagraph (L) until the termination date specified in this paragraph.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), (J), and (M) installed on premises, other than single-family dwellings, shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1986.

(6) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(7) "Operational Residential Conservation Service Plan" means the operational California plan approved in 1983 pursuant to Section 456.024 of Title 10 of the Code of Federal Regulations and maintained under the authority of this section until December 31, 1985, or a Residential Conservation Service (RCS) Plan, developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), and which provides energy audits for measures identified in this section in accordance with the requirements of such an RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 24349.7. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(h) No tax credit shall be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the income year in which the energy conservation measure was installed or any prior income year.

(i) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(j) (1) Except as provided in paragraph (2) of this subdivision, the energy credit provided by this section shall not apply to any energy conservation measure required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (K) of paragraph (5) of subdivision (f).

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 that date, deletes or extends that date.

SEC. 5. Item 9100-101-001 of Section 2.00 of the Budget Act of 1985, as enacted by Senate Bill 150 of the Regular Session of 1985–86, is amended to read:

9100-101-001—For local assistance, Tax Relief 726,532,000

Schedule:

(a) 10-Senior Citizens' Property Tax Assistance	7,425,000
(b) 20-Senior Citizens' Property Tax Deferral Program	8,576,000
(c) 30-Senior Citizen Renters' Tax Assistance	31,429,000
(d) 50-Homeowners' Property Tax Relief	334,500,000
(e) 60-Subvention for Open Space	14,100,000
(f) 80-Renters' Tax Relief	455,400,000
(g) 90-Substandard Housing	102,000

Provisions:

1. Schedule (a) is for property tax assistance to homeowner claimants in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

   Any unexpended balance in Schedule (a) may be used to make payments to senior citizen renter claimants under Schedule (c).
2. Schedule (b) is for property tax postponement and assistance to claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), Division 2 of the Revenue and Taxation Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.
3. Schedule (c) is for property tax assistance to renter claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

   Any unexpended balance in Schedule (c) may be used to make payments to senior citizen homeowner claimants under Schedule (a).
4. Schedule (d) is for reimbursement to local taxing authorities for revenue lost by reason of the homeowners' property tax exemption granted pursuant to subdivision (k) of Section 3 of Article XIII of the Constitution, Controller. The ap-

propriation made by this schedule shall be in lieu of the appropriation required pursuant to Section 25 of Article XIII of the Constitution and the appropriation for the same purposes contained in Section 16120 of the Government Code.

5. Schedule (e) is for providing reimbursement to local taxing authorities for revenue lost by reason of the assessment of open-space lands under Sections 423, 423.3, and 423.5 of the Revenue and Taxation Code, and in accordance with the provisions of Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 or 16140 of the Government Code.
6. Schedule (f) is for transfer by the State Controller, as needed, to the Tax Relief and Refund Account, General Fund, for the purpose of providing credits and refunds to renters as required by Section 17053.5 of the Revenue and Taxation Code, Franchise Tax Board.
7. Schedule (g) is for transfer by the State Controller to the Local Agency Code Enforcement and Rehabilitation Fund, for the purpose of providing funds to defray costs incurred in the enforcement of local housing code provisions and to fund housing rehabilitation programs for persons and families of low and moderate income as defined in Section 50093 of the Health and Safety Code, to be allocated to local agencies prorated on the basis of their share of disallowed deductions which resulted from the agencies' proceedings.

   This amount is in lieu of any statutory requirements.

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 109

An act to add Section 14998.2 to the Government Code, relating to state government.

[Approved by Governor June 28, 1985. Filed with Secretary of State June 28, 1985]

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

SECTION 1. Section 14998.2 is added to the Government Code, to read:

14998.2. (a) There is in the state government the Motion Picture Council consisting of 21 members. The Governor shall appoint 13 members, the Senate Rules Committee shall appoint four members and the Speaker of the Assembly shall appoint four members. The members of the council appointed by the Governor may include representatives of state and local government, motion picture development companies, employee and professional organizations composed of persons employed in the motion picture industry, and other appropriate members of this or related industries.

All members of the council, except legislators who are appointed either by the Senate Rules Committee or by the Speaker of the Assembly, shall serve at the pleasure of the appointing authority for a term of two years from the effective date of the appointment.

(b) One of the members appointed by the Senate Rules Committee shall, and another one may, be a Senator and one of the members appointed by the Speaker shall, and another one may, be a Member of the Assembly. Such persons shall be appointed for terms of four years.

Of the legislators appointed to the council, no more than three legislators from the same political party may be appointed to or serve on the council at the same time.

(c) Any legislator appointed shall serve as a voting member of the council, and shall meet with, and participate in the activities of, the council to the extent that such participation is not incompatible with his or her respective position as a Member of the Legislature, but shall only serve in that capacity while concurrently serving as a Member of the Legislature. Whenever a legislator vacates an office, the appointing power shall appoint another person for a new full term.

(d) Six of the 13 members appointed by the Governor shall be as follows:

(1) One shall be a person who is a member or employee of a union or guild of motion picture artists.

(2) One shall be a person who is a member or employee of a union or guild representing motion picture craftsmen, technicians, or photographers.

(3) Two shall be from major motion picture studios.

(4) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of at least two million people.

(5) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of less than two million people.

CHAPTER 110

An act to add and repeal Section 35355.5 of the Government Code, relating to city incorporation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 1985 Filed with Secretary of State June 28, 1985.]

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

SECTION 1. Section 35355.5 is added to the Government Code, to read:

35355.5. (a) Any proposed city incorporation approved by the voters at an election prior to July 1, 1985, to become effective more than six months following the election, on a date set by the local agency formation commission or the county board of supervisors, shall, notwithstanding Section 35355, become effective for all purposes on July 1, 1985.

(b) A city, the incorporation date of which is affected by this section, shall transfer to the county in which it is located an amount which the county auditor determines is equal to the one-time revenue loss to the county from sales taxes, utility franchise fees, property transfer taxes, fines and forfeitures, and planning fees which were due and payable on and after July 1, 1985, to, but not including, the date upon which incorporation would have become effective pursuant to Section 35355. This amount shall be reimbursement for revenue losses to the county resulting from changing the effective date of the incorporation of the city.

(c) This section shall remain in effect until December 31, 1985, and on that date is repealed.

SEC. 2. No reimbursement is required by this act pursuant to 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.

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

In order that this act may be effectively implemented prior to its December 31, 1985, expiration date, it is necessary that the act go into effect immediately.

CHAPTER 111

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 1985, Filed with Secretary of State June 28, 1985]

I object to the following appropriations contained in Senate Bill No. 150:

Item 0250-001-001—For support of Judiciary. I reduce this item from $68,310,939 to $68,160,939 by reducing:

(c) 30—Judicial Council from $13,356,456 to $13,206,456.

I am reducing this item by $150,000 for judicial education related to the handling of child abuse victims. Funding for this purpose should be included in the pending legislation that would authorize the establishment of this program

Item 0630-495—For support of the Governor's Office of Special Health Care Negotiations

I support reversion of the unexpended balance of the 1982 appropriation provided by Chapter 328, Statutes of 1982 for the Governor's Office of Special Health Care Negotiations. The responsibilities of this office to negotiate Medi-Cal hospital contracts has been completed. However, I do not believe that the reappropriation of these funds, added by the Legislature, to the California Medical Assistance Commission for a pilot capitation program for educational and technical assistance to disproportionate provider physicians is appropriate. Such a program is not presently a function of the commission and I believe adding this type of activity would detract from the commission's effectiveness in its primary concern.

I am also revising the language in this item as follows

"Reversion, Governor's Office of Special Health Care Negotiations. As of June 30, 1985 the unencumbered balance of the appropriation provided in Chapter 328, Statutes of 1982, shall revert to the unappropriated surplus of the General Fund. ~~The amount reverted pursuant to this item is hereby reappropriated for transfer by the State Controller to the California Medical Assistance Commission for the purpose of establishing a pilot capitated health program to provide educational and technical assistance to disproportionate health provider physicians and surgeons.~~"

Item 0820-001-001—For support of Department of Justice I reduce this item from $121,479,572 to $117,923,000 by reducing:

(a) 11 01—Executive-Administration from $37,255,000 to $36,418,000,

(b) 11.02—Distributed Executive-Administration from −$37,255,000 to −$36,418,000,

(e) 40—Criminal Law from $31,486,000 to $28,712,000,

(f) 45—Public Rights from $16,417,000 to $15,893,000, and

(g) 50—Law Enforcement from $97,187,572 to $96,929,000.

I am reducing $258,572 and 5 positions for the expansion of staff in the forensic services laboratories. Recognizing the important role of the laboratories in the criminal justice system, I have included in the budget $1,200,000 for 5 new positions, additional overtime, and new equipment. This action represents the first phase of a three-year effort to upgrade the laboratory system to one of the most modern in the nation The program currently includes $10 4 million and 178.7 personnel years. Additional staffing needs will be monitored as workload trends and efficiencies due to the new equipment are evaluated

I am reducing the legislative augmentation of $524,000 and 6 8 positions from the Public Rights Program for the Diablo Canyon Rate Case. Participation in this case by the Attorney General is discretionary and can be handled on a priority basis within

the Public Rights Program which consists of $15.6 million and 139.6 personnel years.

I am reducing the legislative augmentation of $1,193,000 and 20 positions from the Major Fraud Unit because the primary responsibility for major fraud investigation and prosecution rests with local and federal governments. Recognizing that local agencies lack the expertise and resources to handle all cases, I have retained $1,152,000 and 17 positions to provide increased expertise and multijurisdictional coordination.

I am eliminating $1,581,000 and 32.8 positions of the legislative augmentation for the Criminal Law Program for appeals and prison litigation because of uncertainties associated with workload projections and the use of an unjustified revised workload standard. Recognizing recent increases in workload, however, I am retaining $1,581,000 and 32.9 new positions of the augmentation. I believe this augmentation, in addition to significant increases in the 1984–85 and 1985–86 base budget, is sufficient to address workload needs. Total resources for appeals, writs, trials and other constitutional duties now total $22 1 million and 229.7 personnel years.

Item 0850-001-562—For support of California State Lottery I eliminate this item.

The lottery initiative recently approved by the voters specifies a funding mechanism which does not require a budget act appropriation for the administrative costs of the Lottery. The augmentation and related control language could restrict the ability of the Lottery to make rapid adjustments in expenditure levels in responding to fluctuations in game revenues and market conditions This could make it difficult for the Lottery to achieve the goal of maximizing revenues to education. Therefore, I am eliminating this $141,176,500 item and the related language An appropriate fiscal display on lottery operations will be presented in the 1986–87 Governor's Budget.

Item 0860-001-001—For support of State Board of Equalization. I reduce this item from $86,394,000 to $81,826,000 by eliminating:

(bx) 300001-Consolidation of office space $4,568,000

I am reducing this item by $4,568,000 for the consolidation of the office space and the purchase of furniture for the Board until the costs and justification for the move have been fully developed and reviewed. To aid in this task, I have retained $55,000 in Item 1760-001-666 which will be used to complete a space needs assessment

Item 0977-101-666—For local assistance. I eliminate this item.

I am eliminating this $10,000,000 item to make future interest payments on bonds issued for county hospital improvements from the General Fund and would guarantee repayment of principal on such bonds from the General Fund Commitments of general revenues for bond financing should be limited to general obligation bonds which are approved by the voters

Item 0977-101-036—For local assistance. I eliminate this item

I am deleting this item because there is also an appropriation of $5 million for acquisition of equipment by county hospitals in Item 4260-101-036 which makes this item duplicative.

Item 1100-001-001—For support of Museum of Science and Industry.

I have taken the opportunity to review the Legislature's action on my contracting-out proposals, which I initiated to encourage the development of innovative alternatives to traditional State operations with the intent of increasing the efficiency of the delivery of services to the public. Although many of my proposals were adopted by the Legislature, the contracting-out proposal which would have allowed the Museum of Science and Industry to realize cost savings in supervisory and administrative staff involved with the operation of the Museum's parking lots was not accepted In reviewing the basis for the Legislature's action, I have determined that this proposal continues to be an appropriate opportunity to contract-out I am therefore, eliminating the 14 4 personnel years added by the Legislature which would allow the traditional delivery of services and will use the related funds to contract these services.

Item 1655-090-702—For support of the Department of Consumer Affairs.

I have approved this item and its related language. However, Provision 1 requires the department to implement a plan to decentralize inspection services by January 1, 1986. While this is desirable, current law (Business and Professions Code Sections 159 5 and 160.5) requires inspectors to be employees of the Division of Investigation

Since this change requires legislation, implementation cannot be completed until enactment of such legislation.

Item 1655-092-001—For support of Department of Consumer Affairs. I eliminate this item.

I am eliminating $200,000 appropriated to the Department of Consumer Affairs for transfer to the Legislative Analyst for a study of the organization of the Department. The Department complied with 1984–85 supplemental language to prepare one such study. If the Legislature believes that further study is warranted, and that the study should be undertaken by the Legislative Analyst, it would be more appropriate to augment Item 0130-021-001 for support of joint expenses of the Legislature.

Item 1655-094-494—For support of Department of Consumer Affairs I eliminate this item.

This action conforms to the action taken in Item 1655-092-001

Item 1705-001-001—For support of the Fair Employment and Housing Commission I reduce this item from $767,000 to $734,000 by reducing.

(a) 100000—Personal Services from $605,000 to $572,000.

I am eliminating a legislative augmentation of $33,000 for the restoration of one legal counsel position. Currently, the Fair Employment and Housing Commission's legal staff rewrite 90 percent of the decisions made by the Office of Administrative Hearings, compared to an average of 5 percent for other users of the Office

The five remaining attorneys, coupled with a closer coordination with the Office of Administrative Hearings, will enable the Commission to maintain the same level and quality of service currently provided to the public.

Item 1710-001-001—For support of the State Fire Marshal

I have taken the opportunity to review the Legislature's action on my contracting-out proposals, which I initiated to encourage the development of innovative alternatives to traditional State operations with the intent of increasing the efficiency of the delivery of services to the public. Although many of my proposals were adopted by the Legislature, the contracting-out proposal which would have allowed the Fire Marshal to contract work activities within the Fireworks Testing Program that are both seasonal and highly technical was not accepted. In reviewing the basis for the Legislature's action, I have determined that this proposal continues to be an appropriate opportunity to contract-out. I am therefore, eliminating the 2.6 personnel years added by the Legislature which would allow the traditional delivery of services and will use the related funds to contract these services.

Item 1710-001-199—For support of the State Fire Marshal I am deleting Provision 1.

I am deleting Provision 1 regarding the contract for fireworks testing, disposal and development of a testing guide This language precludes the possible economic advantage of entering into more than one contract for these diverse services It is unlikely that one contractor will have the necessary expertise to perform all three phases of this work effort. I believe that during the initial implementation of this program it is important to allow the Fire Marshal flexibility to obtain those services needed at the most favorable price for the State.

Item 1730-001-001—For support of Franchise Tax Board. I reduce this item from $120,264,000 to $118,638,000 by reducing.

(a) 100000—Personal Services from $90,964,000 to $89,608,000,

(b) 300000—Operating Expenses and Equipment from $32,342,000 to $32,072,000

I am reducing this item by $1,526,000 to eliminate 49.5 personnel years added to expand the Franchise Tax Board's audit program. The 1985–86 Budget Act provides an additional $2,288,000 and 38.3 personnel years to enforce the provisions of the "Tax Amnesty" bill (Chapter 1490, Statutes of 1984). I believe this augmentation increases the Board's enforcement capabilities sufficiently and that additional resources are not needed at this time

I am also reducing this item by $100,000 to eliminate 4.2 personnel years added for the Board's Telephone Information Center. The Board currently maintains a staffing level of 132 personnel years at the center This augmentation would increase the access level by only 1.6 percent. An increase of this size appears unnecessary as there

does not appear to be dissatisfaction with the current level of service.

Item 1760-001-001—For support of Department of General Services. I reduce this item from $8,185,000 to $7,900,000 and delete Provision 4.

This action conforms to the action taken in Item 1760-001-666. I am deleting Provision 4 since the funds for this study are eliminated in this item as well as the main support item.

"4. The Director of the Department of Finance shall assess affected agencies and departments included in the State Procurement Task Force study of statewide contracting and procurement procedures to cover costs. The Task Force shall review the RFP issued by the Department of General Services prior to its being made public and shall jointly determine the award of the Procurement/Contracting study contract with the Department."

Item 1760-001-397—For support of Department of General Services. I eliminate Provision 1.

I am eliminating Provision 1 to correspond to the actions I have taken in eliminating Items 1840-001-666 and 1840-001-397.

Item 1760-001-666—For support of Department of General Services I change this item by reducing·

(a) 100000—Personal Services from $138,842,000 to $138,800,000,

(b) 300000—Operating expenses and equipment from $215,898,000 to $215,655,000, and

(e) Amount payable from the General Fund (Item 1760-001-001) from −$8,185,000 to −$7,900,000,

and by deleting:

Provisions 11 and 14.

I am reducing this item by $285,000 and 72.7 personnel years to include the following reductions I am reducing $110,000 and 1 2 personnel years for increased staff to develop building codes for historical buildings. My action retains 1.2 personnel years and $110,000 to provide the necessary staff support for this program.

I am also eliminating $175,000 to support a task force examining the Department's contracting-out and procurement procedures The Department recently received a major consultant study of its procurement program. I am leaving an augmentation of $25,000 for a follow-up evaluation of the Department's implementation, as well as language authorizing the Director of Finance to augment the Department's budget to implement recommendations where benefits or service improvements exceed costs It would appear that until this process is completed, another study would be of marginal utility

I have taken the opportunity to review the Legislature's action on my contracting-out proposals, which I initiated to encourage the development of innovative alternatives to traditional State operations with the intent of increasing the efficiency of the delivery of services to the public. Although many of my proposals were adopted by the Legislature, the contracting-out proposal which would have provided janitorial services to the Franchise Tax Board, San Francisco, and Van Nuys State Office Buildings at a reduced cost was not accepted. In reviewing the basis for the Legislature's action, I have determined that this proposal continues to be an appropriate opportunity to contract out I am therefore eliminating the 71.5 personnel years added by the Legislature which would allow the traditional delivery of services and will use the related funds to contract these services To correspond to this action, I am deleting Provision 11 which states.

"11. The Department of General Services shall not contract for janitorial services in State office buildings scheduled for occupation in 1985–86 in San Francisco and Sacramento, and the state office building in Van Nuys."

I am also deleting Provision 14.

"14. If SB 620 of the 1985–86 Regular Session is chaptered during the 1985–86 fiscal year, any unexpended funds appropriated in this item specifically for the support of the California State Police shall be transferred to Item 1840-001-666 upon the effective date of that bill."

This corresponds to the actions I have taken in eliminating Items 1840-001-666 and 1840-001-397

I am approving $55,000 appropriated for a space needs assessment for the Legislature in order to complete a plan to meet the space needs of both the Legislature and the Executive Branch described in Item 0860-001-001

Item 1760-101-036—For local assistance, Department of General Services. I eliminate this item

I am eliminating this item because I am concerned about the seeming proliferation of appropriations related to museums and exhibitions that have been added to this Budget Bill. Projects of this type are complex and deserve adequate study and review to determine the State's proper level of participation in their development or operation. I am willing to work with the Legislature in the development of a process to assure full consideration of the State's role in projects of this type.

Item 1760-301-036—For Capital Outlay, Department of General Services. I reduce this item from $3,925,000 to $3,303,000 by eliminating.

(14) 50.10 045—Sacramento-New State Building, Site 5 $622,000

I am eliminating $622,000 for working drawings for the New State Building, Site 5. I believe it is inappropriate to construct another state facility containing general office space in downtown Sacramento when growth in the State's workforce has been halted and the Sacramento area has an apparent abundance of office space available for lease The Department of General Services should evaluate these concerns in the context of programming future space needs for the State Library, one of the proposed tenants for Site 5.

Item 1840-001-397—For support of California State Police. I eliminate this item.

I am eliminating this item to correspond to the action I have taken in Item 1840-001-666

Item 1840-001-666—For support of California State Police I eliminate this item.

This item was added to the budget bill to provide for the separation of the California State Police from the Department of General Services' budget should SB 630 be chaptered. I am eliminating the item because adequate funding for the State Police has been provided in Item 1760-001-666 and because I believe the State Police is appropriately located in the Department of General Services Support and overhead costs for the State Police would be increased by $889,000 if a separate department were created.

Item 1880-001-001—For support of State Personnel Board. I reduce this item from $21,020,000 to $20,708,000 by reducing

(a) 10—Merit System Administration from $20,609,000 to $20,352,000, and

(d) 50.01—Administrative Services from $3,978,000 to $3,923,000.

I am reducing this item by $312,000 and 14.4 personnel years. The result of this action is to retain $1,059,000 and 36.6 personnel years of the legislative augmentation. Of this total, $262,000 and 10 personnel years permit a continuation of centralized examination administration by the Board for those examinations that are not delegated to departments. The balance of this amount, or $797,000 and 26.6 personnel years, provides for an orderly phaseout of 32 positions In addition, the Department of Finance will authorize the Board to administratively establish up to 10 positions pursuant to interagency agreements in those instances where departments need additional assistance from the Board

Item 1900-001-830—For support of Public Employees' Retirement System. I reduce this item from $30,917,000 to $30,447,000 by reducing·

(a) 10—Retirement from $30,315,000 to $30,029,000,

(b) 20—Social Security from $691,000 to $690,000,

(c) 30—Health Benefits from $2,598,000 to $2,575,000,

(d) 40—PERS System Redesign Project from $1,023,000 to $1,016,000 and

(e) 50 01—Administration from $17,684,000 to $17,531,000

I am reducing this item by $470,000 and 20.4 personnel years leaving a legislative augmentation of $346,000 and 15.1 personnel years to achieve a salary savings level of 7 6 percent. This action retains full funding of staff benefits which, historically, have been underfunded, and brings budgeted salary savings into accord with actual salary savings over the past few years If salary savings for 1985–86 are lower than the budgeted rate, the Department of Finance will consider an appropriate adjustment

to the PERS budget.

Item 1920-001-835—For support of State Teachers' Retirement System. I reduce this item from $14,259,000 to $13,829,000 by reducing:

(a) 100000—Personal Services from $9,847,207 to $9,451,855, and

(b) 300000—Operating Expenses and Equipment from $4,878,793 to $4,844,145.

I am reducing this item by $430,000 and 12.3 personnel years, with $172,000 and 3.8 personnel years of this total being reduced from the Investment Office. In 1984–85 STRS added 10 positions to the Investment Office to provide civil service support to the 20 contract professional positions authorized for internal investments. Since these 20 contract positions have not all been filled, consideration of further augmentations should be deferred. The balance of this total, or 8.5 personnel years and $258,000, is reduced from the Public Inquiry Unit, leaving 15.7 personnel years. This is an addition of 1.5 personnel years for 1985–86 to assist in staffing 6 additional toll-free lines. This will provide an acceptable access level based on calls received since the lines became operational on January 1, 1985. Further adjustments will be considered after STRS has had more experience with these toll-free lines.

Item 2100-001-001—For support of Department of Alcoholic Beverage Control. I reduce this item from $16,687,000 to $16,341,000 by reducing:

(b) 10.20—Compliance from $6,294,000 to $5,948,000.

I am eliminating this augmentation of $346,000 and 10.9 personnel years because the Department of Alcoholic Beverage Control has submitted workload data which indicate that, when fully staffed at the authorized level, it will be possible to complete the investigative workload required by current statutes within the resources provided by this budget. During 1984–85, the Department has experienced an unusually high vacancy rate in their special investigator positions as a result of unavoidable delays in the hiring process. I believe that the provision of any additional resources would be premature until they have an opportunity to fully utilize their existing positions.

Item 2200-001-001—For support of Department of Commerce. I reduce this item from $17,100,000 to $16,198,000 by reducing:

(b) 15—California Film Office from $522,000 to $405,000, and

(c) 30—Tourism from $6,696,000 to $5,911,000.

I am reducing this item by $117,000 to eliminate the legislative augmentations for the California Film Office ($50,000) and the Motion Picture Council ($67,000). My budget provides funding for these agencies at the level set by Chapter 1639, Statutes of 1984, which established the California Film Office and transferred the Motion Picture Council to the Department of Commerce. I am also deleting Provision 4 because it constitutes an infringement of executive authority.

"4. Of the amount appropriated in category (b), no more than 60 percent shall be available for expenditure until the California Film Office has submitted a filmmaking marketing plan to the Motion Picture Council and the plan has been approved by the council."

I am also eliminating the legislative augmentation of $785,000 to provide planning funds for the establishment of a Hollywood Exposition. I am concerned about the seeming proliferation of appropriations related to museums and exhibitions that have been added to this Budget Bill. Projects of this type are complex and deserve adequate study and review of the State's proper level of participation in their development or operation. I am willing to work with the Legislature in the development of a process to assure full consideration of the State's role in projects of this type.

I am also deleting Provision 3 as a conforming action.

"3. Of the amount appropriated in category (c) for support of the Office of Tourism, $785,000 shall be for allocation to a non-profit corporation for the purpose of implementing Phase II planning for the Hollywood Exposition. The nonprofit corporation to which these funds are allocated shall have as its primary purpose the planning, construction, and operation of a Hollywood Exposition, which would include exhibits dealing with the past, present, and future of the entertainment industry. Phase II planning shall include the establishment of a fundraising committee and the completion of architectural and exhibit design work, including detailed cost estimates and construction and exhibit development schedules."

Item 2200-101-922—For local assistance, Department of Commerce.

I am deleting Provision 2.

"2. Of the amount appropriated by this item, $500,000 shall be available for the purpose of making a loan to capitalize a bonding program for small business contractors. In the development of this program, the department shall utilize a surety company which has at least five years of experience in providing management, financial and technical assistance to minority contractors, at least five years of experience in bonding minority contractors, and at least 50 percent of its bonding portfolio with minority contractors."

This Provision would have required that $500,000 of the economic development grant and loan funds in this item be allocated to a specified surety company for the purpose of capitalizing a bonding program for small business contractors. However, the funds available for this program are to be allocated on a competitive basis to those applicants whose projects can demonstrate the highest ratio of jobs created per dollar spent. The surety company referenced by this augmentation will still be eligible to compete for available funds as part of the competitive allocation process and can be funded if their proposal has sufficient merit

Item 2240-001-001—For support of Department of Housing and Community Development I change this item by reducing:

(b) 20—Community Affairs Program from $11,763,000 to $11,713,000, and by eliminating:

(p) Amount payable from the General Fund (Item 2240-011-001) —$50,000.

I am reducing the Community Affairs Program by $50,000 to correspond to my veto of Item 2240-011-001, which eliminated that item. These funds, intended for support of the Independent Living Housing Assistance Program (ILHAP), are unnecessary because ILHAP completed its authorized activities during 1984–85

Item 2240-011-001—For support of Department of Housing and Community Development. I eliminate this item.

I am eliminating this item of $50,000 because the Independent Living Housing Assistance Program completed its authorized activities during 1984–85. I have also eliminated a related $1,000,000 appropriation in Item 2240-107-001 for the same program While the objective of the program, to aid disabled individuals in moving from institutional to independent living situations, is commendable, it proved to be a complex program which was difficult to administer and use. California continues to provide substantial resources to serve the disabled through the Department of Developmental Services and the Department of Social Services I remain open to future proposals for transitioning disabled persons to independent living through programs existing in those departments This reduction also eliminates the amount payable from this item to Item 2240-001-001.

Item 2240-011-648—For support of Department of Housing and Community Development I eliminate this item.

I am eliminating this item of $100,000 because similar studies have already been performed by CALTRANS and the California Highway Patrol The results of these studies have concluded that it is unsafe to transport manufactured homes in excess of 12 feet in width on state highways unless accompanied by a pilot car There is no reason to believe the proposed study would provide new information or produce a different conclusion.

Item 2240-102-001—For local assistance, Department of Housing and Community Development. I eliminate this item

I am eliminating this item of $10,000,000 because a substantial augmentation to programs supporting rental housing construction already exists In May of this year I signed Chapter 40, Statutes of 1985, which permits cities and counties to sell $1 5 billion annually in mortgage revenue bonds—an increase of $600 million over the prior authorization. This legislation provides Californians with a large increase in funds for affordable housing over the coming year

Item 2240-103-001—For local assistance, Department of Housing and Community Development I eliminate this item

I am eliminating this item of $7,000,000 because a substantially larger housing

rehabilitation effort funded by Federal Community Development Block Grants (CDBG) is currently available. For federal fiscal year 1986, the President has proposed that approximately $270 million in CDBG funds be made available to California, at least $150 million of which will be used for housing rehabilitation. The 1985–86 State Budget contains an increase of three positions for administration of the CDBG Small Cities Program. These funds, plus the additional funds available for rehabilitation through local mortgage revenue bond programs, more than compensate for the elimination of this proposed augmentation.

Item 2240-104-001—For local assistance, Department of Housing and Community Development I eliminate this item

I am eliminating this item of $5,000,000 because I have already increased the funding available for the Emergency Shelter Program during 1985–86 by $5,000,000 This amount is sufficient to provide 30 days of emergency housing for 46,000 of the State's 50,000–70,000 homeless, and is the amount recommended in the April 1985 *Study of the Issues and Characteristics of the Homeless Population in California.* Given this substantial commitment, and the fact that other private and federal funds have been directed towards helping the homeless, I believe that the $5 million I am approving in Item 2240-111-001 represents a major step towards addressing this problem for 1985–86

Item 2240-105-001—For local assistance, Department of Housing and Community Development. I eliminate this item

I am eliminating this item of $2,000,000 because I have already increased the budget for the Residential Hotel Rehabilitation Program by $3,000,000 in Item 2240-111-001 This was the full amount recommended in the April 1985 *Study of the Issues and Characteristics of the Homeless Population in California* In addition, at least $150 million in Federal Community Development Block Grants will be available for housing rehabilitation during federal fiscal year 1986

Item 2240-106-001—For local assistance, Department of Housing and Community Development I reduce this item from $5,000,000 to $1,500,000.

I am reducing this item by $3,500,000 This program provides funds to be used to match the Farmers Home Administration Section 515 low interest loan program for rural rental housing Typically, for each dollar of State funds provided, California receives $20 of Farmers Home Administration loans. For federal fiscal year 1986, California will receive between $18 and $44 million through this program, therefore, I am approving $1,500,000, which will enable California to receive and make use of the available federal funds

Item 2240-107-001—For local assistance, Department of Housing and Community Development I eliminate this item.

I am eliminating this item of $1,000,000 because the Independent Living Housing Assistance Program completed its authorized activities during 1984–85 I have also eliminated a related $50,000 appropriation in Item 2240-011-001 for the same program While the objective of the program, to aid disabled individuals in moving from institutional to independent living situations, is commendable, it proved to be a complex program which was difficult to administer and use California continues to provide substantial resources to serve the disabled through the Department of Developmental Services and the Department of Social Services I remain open to future proposals for transitioning disabled persons to independent living through programs existing in those departments

Item 2240-108-001—For local assistance, Department of Housing and Community Development. I reduce this item from $5,000,000 to $2,000,000.

The California Housing Advisory Service's loan program provides a unique opportunity for industrious Californians who are willing to help themselves by building their own homes. However, I am reducing this item by $3,000,000 because the original $3,000,000 appropriation for the program still remains to be spent The loan component of this program was first provided through SB 2243 (Chapter 1690, Statutes of 1984) This is an attractive program to help people help themselves, but because it is a new program the department has not yet had sufficient time to evaluate its effectiveness Therefore, a smaller augmentation than that proposed by the

Legislature is reasonable at this time. The $2,000,000 which I am approving, coupled with the $3,000,000 still available, will provide a $5,000,000 program level for 1985–86.

Item 2240-109-001—For local assistance, Department of Housing and Community Development. I eliminate this item.

I am eliminating this item of $2,500,000 because the department has sufficient resources to proceed with these three migrant housing centers in Riverside, San Diego and Imperial Counties. In 1984, I signed AB 2580 (Chapter 1689, Statutes of 1984) which authorized HCD to develop three centers at these locations by using existing departmental and federal funds. The Riverside center is currently going forward on this basis and requires no additional state funds. The San Diego and Imperial County centers are also being pursued on this basis, but are experiencing serious delays due to a lack of necessary matching funds or in-kind contributions at the local level, the lack of a local sponsor/administrator for each project, and the lack of identified sites upon which to construct the centers Even if this augmentation were made available, neither of these projects will have progressed enough to make appropriate use of the funds during 1985–86. I remain ready to reconsider augmentations for these projects in the future if the need for them can be clearly demonstrated

Item 2290-001-217—For support of Department of Insurance. I reduce this item from $21,975,000 to $21,675,000 by reducing:

(a) 10—Regulation of Insurance Companies and Insurance Producers from $21,010,000 to $20,710,000.

I am reducing this item by $300,000 to eliminate the legislative augmentation for increased consumer services to the public. The budget provides $1.9 million to fund consumer-related activities in the Consumer Affairs Division of the Department of Insurance. The Department is currently reviewing its consumer services program and the results of that review will be available for consideration in the 1986–87 budget

I am also deleting the language in Provision 4 because the corresponding appropriation has been eliminated

"4. Of the funds appropriated in this item, $300,000 shall be available for the purposes of increasing consumer services to the public."

Item 2660-051-001—For transfer of $10,000,000 General Fund to the Transportation Planning and Development Account, State Transportation Fund. I eliminate this item.

I believe it is inappropriate to use General Fund monies for transportation purposes since the Transportation Planning and Development Account and the State Highway Account were specifically established and funded from Transportation-related revenues for expenditure on transportation activities. The total estimated amount remaining in the Transportation Planning and Development Account for expenditure in 1985–86 is $116 million which is sufficient to fund the highest priority mass transportation projects.

Item 2660-101-042—For local assistance, Department of Transportation I reduce this item from $113,316,652 to $110,500,000 by reducing:

(1) 20.30—Local Assistance from ($273,436,652) to ($264,299,000), and

(g) Amount payable from the Transportation Planning and Development Account, State Transportation Fund (Item 2660-101-046) from −$26,153,000 to −$19,832,000

I am reducing this item by $2,816,652 because it includes costs which are more appropriately shared with local governments. I believe it is inappropriate to use state transportation funds to pay the entire cost for maintaining grade crossing warning devices. The $1,000,000 which I am approving in this item is consistent with the requirements of the Public Utilities Code and the historical funding level for this activity.

Item 2660-101-046—For local assistance, Department of Transportation I reduce this item from $26,153,000 to $19,832,000.

I am eliminating this legislative augmentation of $6,321,000 for the Transit Capital Improvement Program because there are insufficient funds in the Transportation Planning and Development Account to finance the entire program, as approved by the California Transportation Commission. However, if funds subsequently become available, and absent other funding needs, I will reconsider approving an augmentation to the Transit Capital Improvement Program

Item 2660-490—Reappropriation, Department of Transportation I reduce this item by $2,500,000 by eliminating:

046—Transportation Planning and Development Account

(2) Item 2660-301-046, Budget Act of 1982 $2,500,000, and

deleting Provision 1.

I am eliminating $2,500,000 in the Transportation Planning and Development Account Although I recognize that restoration of the San Francisco to Monterey rail route has merit, I cannot support this reappropriation due to the lack of funds in the account. Some of the objections that I raised last year regarding this project have been partially addressed, but I still have the following concerns.

1. Based upon current Transportation Planning and Development revenue estimates, there are insufficient funds to finance this project
2. There is an existing process by which the California Transportation Commission reviews and approves projects for funding. This project proposal should be submitted to the commission for their review and approval, rather than appropriating funds directly to the project.
3 The cost to upgrade the required track, construct the necessary facilities and make the service viable would be approximately $12 5 million Therefore, the $2.5 million reappropriation would be insufficient and would commit California to a costly project for which sufficient funds may not be available

I am also deleting Provision 1 as a conforming action.

Item 2700-001-044—For support of Office of Traffic Safety. I change this item by reducing:

(a) Support from $7,896,000 to $7,796,000, and by eliminating:

(b) Reimbursements —$100,000.

I am reducing reimbursements by $100,000 for the purpose of studying the safety of transporting manufactured homes without the use of pilot cars This reduction will conform to my action on Item 2240-011-648.

Item 2720-001-044—For support of Department of the California Highway Patrol. I reduce this item from $389,442,500 to $389,126,500 by reducing·

(a) 10—Traffic Management from $386,317,109 to $386,001,109

I am eliminating the legislative augmentation of $316,000 and 6.7 personnel years for continuation of the Los Angeles area helicopter unit This helicopter is no longer essential to CHP operations because of increased CHP staff and improved traffic control and accident detection technology in the Los Angeles area. Since 1969, this helicopter has been functioning primarily as an aerial observation platform. In addition, the Los Angeles area is currently being patrolled by 44 aircraft from various law enforcement agencies.

Item 2740-001-044—For support of Department of Motor Vehicles I reduce this item from $197,458,490 to $197,415,740 by reducing.

(b) Operating Expenses and Equipment from $88,446,490 to $88,403,740.

I am eliminating the $42,750 legislative augmentation to provide the Department of Motor Vehicles with funding to enter into a pilot Teleguide System project The initial pilot proposal was intended to assist in implementing the new telephone appointment system Since the Department has recently changed to an *optional* appointment system, this pilot project is unnecessary

Item 3110-101-001—For local assistance, Tahoe Regional Planning Agency I delete the language contained in Provision 4.

I am deleting Provision 4 which would transfer any unexpended balance of this appropriation to the Resources Agency in the event the Tahoe Regional Planning Agency is dissolved My elimination of this language conforms to my veto of Item 3150-101-001.

"4 In the event the State of Nevada enacts a statute which would have the effect of dissolving the Tahoe Regional Planning Compact, as provided in Article 10 thereof, the unexpended portion of any funds appropriated by this item shall be transferred to the Resources Agency and made available for expenditure by the California Tahoe Regional Planning Agency, for the purpose of enforcing terms and conditions of all permits issued by the Tahoe Regional Planning Agency which are applicable to the California portion of the Lake Tahoe Basin."

Item 3150-101-001—For local assistance, Resources Agency. I eliminate this item. This appropriation was added to the budget to activate the California Tahoe Regional Planning Agency in the event the State of Nevada enacted legislation to withdraw from the bistate compact which provides the authority for the Tahoe Regional Planning Agency. The Nevada Legislature has adjourned its biennial session without enacting such legislation and this contingency item is not necessary.

Item 3340-001-001—For support of California Conservation Corps. I reduce this item from $34,432,000 to $32,144,000 by reducing:

(b) 10.20—Base and Fire Centers from $36,574,000 to $36,474,000,

(d) 10.40—Nonresidential Program from $4,069,524 to $2,000,000,

(e) 20 01—Administration from $3,944,476 to $3,826,000, and

deleting Provision 2, 3, and 5.

I am reducing this item by $2,188,000 and 6.2 personnel years, to expand the neighborhood corps program. Further expansion of this new program should be deferred until there has been sufficient time to evaluate the program's effectiveness and benefits.

I am also deleting the related Provisions 2 and 3 as follows:

"2. Of the funds appropriated for this item, $2,000,000 shall be for expansion of the nonresidential program, with locations to be determined by the California Conservation Corps. Priority shall be given to sites in Central and Southern California."

"3. Up to 6.5 personnel-years are authorized, if necessary to implement the $2,000,000 expansion of the nonresidential program (Chapter 3.5 (commencing with Section 14400) of Division 12 of the Public Resources Code) The CCC shall contract for the $2,000,000 expansion, unless it determines that it is most effective to expand the nonresidential program utilizing its own staff. In that event, up to 18 additional personnel-years shall be authorized, with the additional personnel-years to be funded from the $2,000,000 augmentation in Provision 2.

The CCC shall notify the Department of Finance, the Joint Legislative Budget Committee, and the Department of Personnel Administration of the number of personnel-years necessary to implement the nonresidential program expansion."

In addition, I am reducing the $100,000 General Fund legislative augmentation for construction of a Federal Sierra Forest Trail The CCC should be reimbursed from federal funds for projects undertaken by corpsmembers on federal lands If federal funds become available, a Section 28 letter will be submitted to the Legislature.

I am also deleting Provision 5 to conform to this action

"5. Of the funds appropriated in this item, $100,000 is available to the Corps for crew members to work along the trail in the Sierra and Sequoia Forests from Garlic Meadow Creek to the Little Tehipite Valley along the Middle Fork of the Kings River. This amount is available contingent upon the request, cooperation, and supervision of the project by the United States Forest Service"

Item 3400-001-001—For support of the Air Resources Board. I reduce this item from $6,211,000 to $5,311,000 by reducing

(a) 100000—Personal Services from $25,486,000 to $24,986,000, and

(b) 300000—Operating Expenses and Equipment from $21,862,000 to $21,462,000.

I am eliminating an augmentation of $900,000 and 12 personnel years to monitor additional pesticides, referred by the Department of Food and Agriculture as potential toxic air contaminants My original budget contains an adequate level of resources to monitor pesticides referred by the Department This action conforms to my action on Item 8570-001-001.

Item 3540-001-001—For support of the Department of Forestry I reduce this item from $174,038,000 to $173,141,000 by reducing·

(b) 300000—Operating Expenses and Equipment from $85,843,045 to $84,946,045.

I am eliminating a General Fund augmentation of $897,000 for the department's cost of administering the Forest Practice Act program. I am also eliminating related control language in Item 3540-001-928. This latter action will enable $897,000 from the

Forest Resources Improvement Fund to continue to be used for Forest Practice Act administrative costs consistent with the policy established last year by the Legislature. While this action does reduce funding for reforestation, the budget still provides over $4 million for this purpose

Item 3540-001-928—For support of the Department of Forestry.

I am deleting Provision 1 of this item to conform to the action taken in Item 3540-001-001.

Item 3540-301-928—For Capital Outlay, Department of Forestry. I eliminate this item.

I am eliminating this augmentation of $270,000 from the Forest Resources Improvement Fund and the related language because I believe this land acquisition for the Mountain Home Demonstration Forest would be more appropriately funded from the Special Account for Capital Outlay as proposed in my budget

Item 3600-001-140—For support of the Department of Fish and Game. I reduce this item from $10,083,000 to $9,963,000

I am reducing this item by $70,000 for a study on the mountain lion population. This same study is being proposed in SB 76. Funding for the program should be contained in the bill. I am also deleting Provision 1 relating to this study.

"1 Of the amount appropriated in this item, an amount, not to exceed $70,000, shall be available for encumbrance by the department for the costs of preparing mountain lion management plans, as required by Section 4856 of the Fish and Game Code, as proposed by Senate Bill 76 of the 1985–86 Regular Session of the Legislature. This provision shall become operative only if Senate Bill 76 is enacted. If Senate Bill 76 is not enacted, $70,000 of the amount appropriated in this item shall revert to the unappropriated surplus in the California Environmental License Plate Fund "

I am approving $150,000 of a $200,000 augmentation for construction of a Suisun Marsh wildlife rehabilitation center and an interpretive center. It is my understanding that construction of the interpretive center will not commence during the 1985–86 fiscal year. Therefore, the $50,000 provided for this purpose has been eliminated

I am also deleting Provision 2

"2. Of the amount appropriated in this item, an amount, not less than $200,000, shall be available for encumbrance by the Department of Fish and Game for the Suisun Marsh Wildlife Rehabilitation Center."

These actions reduce the amount payable from this item to Item 3600-001-200

Item 3600-001-200—For support of the Department of Fish and Game. I change this item by reducing.

(b) 300000—Operating Expenses and Equipment from $44,255,000 to $44,135,000, and

(f) Amount payable from the California Environmental License Plate Fund from −$10,083,000 to −$9,963,000.

I am reducing $120,000 from the amount payable from the Environmental License Plate Fund to reflect the elimination of an augmentation of $70,000 to conduct a study on the population of the mountain lion and the elimination of an augmentation of $50,000 for construction of a Suisun Marsh interpretive center I am reducing these augmentations to correspond to the actions taken in Item 3600-001-140.

Item 3640-001-447—For support of the Wildlife Conservation Board. I reduce this item from $556,000 to $496,000 by reducing.

(a) 100000—Personal Services from $456,911 to $405,000, and

(b) 300000—Operating Expenses and Equipment from $99,089 to $91,000

I am reducing this item by the legislative augmentation of $60,000 and 1.9 personnel years because the 9.0 personnel years already authorized for this program are sufficient to meet workload requirements during 1985–86

Item 3680-101-516—For local assistance, Department of Boating and Waterways I reduce this item from $25,382,000 to $23,632,000 by reducing.

(b) Loans: Local Government from $18,650,000 to $16,900,000,

by eliminating

(9.5) Pittsburg Marina Loan ($1,750,000)

I am reducing this item by $1,750,000 to eliminate the augmentation of a loan for the Pittsburg Marina project. This project should be submitted for consideration during the normal budget process where a thorough analysis and evaluation of its merits can be achieved.

Item 3720-001-001—For support of California Coastal Commission. I reduce this item from $6,253,000 to $5,781,000 by reducing.

(a) 100000—Personal Services from $5,256,000 to $4,784,000,

(b) 300000—Operating Expenses and Equipment from $3,352,000 to $2,712,000, and

(e) Amount payable from the Federal Trust Fund from −$2,000,000 to −$1,360,000.

I am reducing this item by $472,000 and 13.5 personnel years by eliminating the Eureka district office and reducing the Santa Cruz district office. These reductions reflect the reduced workloads resulting from the completion and near completion of local coastal plans in these areas. The remaining district offices are available to handle any workload generated in these two areas.

Further, I am reducing this item by $640,000 from the amount payable from the Federal Trust Fund to correspond to my action in Item 3720-001-890.

Item 3720-001-890—For support of California Coastal Commission. I reduce this item from $2,000,000 to $1,360,000

I am reducing this item by $640,000 because the need for this funding has not been justified. I am approving $1,360,000 in this item to provide. 1) $594,000 for support of the Coastal Commission; 2) $186,000 for support of the San Francisco Bay Conservation and Development Commission, and 3) $580,000 for the Coastal Conservancy for various coastal enhancement projects.

Item 3760-001-140—For support of State Coastal Conservancy. I eliminate this item

I am eliminating this item in the amount of $60,000 for the support of coastal access publications for handicapped individuals The California Coastal Commission currently publishes the California Coastal Access Guide, along with other publications Information for all visitors should be incorporated in existing publications to avoid duplication This eliminates the amount payable from this item to Item 3760-001-565.

Item 3760-001-565—For support of State Coastal Conservancy. I change this item by reducing:

(a) 100000—Personal Services from $1,556,000 to $1,466,000,

(b) 300000—Operating Expenses and Equipment from $833,000 to $773,000, and

(g) Amount payable from the State Coastal Conservancy Fund of 1984 (Item 3760-001-730) from −$359,000 to −$269,000,

and by eliminating.

(e) Amount payable from the California Environmental License Plate Fund (Item 3760-001-140) (−$60,000)

I am eliminating the $60,000 amount payable from the Environmental License Plate Fund for the support of coastal access publications for handicapped individuals to correspond to my action on Item 3760-001-140

I am also reducing $90,000 from the amount payable from the State Coastal Conservancy Fund of 1984 for the support of the Commercial Fishing Industry Project. I am reducing this subitem to correspond to my action on Item 3760-001-730

Item 3760-001-730—For support of State Coastal Conservancy. I reduce this item from $359,000 to $269,000, and delete the related language.

I am reducing this item in the amount of $90,000 and two positions for support of the Commercial Fishing Industry Project The need for these positions has not been clearly established. This action reduces the amount payable from this item to Item 3760-001-565 The budget language is being eliminated to conform to this action

Item 3760-101-730—For local assistance, State Coastal Conservancy I reduce this item from $11,000,000 to $9,000,000

by eliminating

(g) Eastbay Shoreline Project ($2,000,000).

I am reducing this item by $2,000,000 for the East Bay Shoreline Project There is insufficient information at this time to determine the merits of this project, relative to the merits of other projects which might also qualify for Coastal Conservancy funds

This project should be submitted during the normal budget process where it can be evaluated competitively with other proposals. With this action, I am approving $9,000,000 in this item to provide: 1) $6,000,000 for coastal and urban waterfront restoration; 2) $2,000,000 for public access; and, 3) $1,000,000 for agricultural land preservation.

Item 3760-301-748—For Capital Outlay, State Coastal Conservancy. I reduce this item from $1,500,000 to $500,000 by eliminating:

(a) 20.19 011—Sinkyone Wilderness—Acquisition $1,000,000

I am eliminating this project because it provides only one-seventh of the funding proposed for Sinkyone Wilderness in this Budget Bill, and the funds comprising the remainder of the $7,000,000 total appropriation are needed for higher priority projects. The Special Account for Capital Outlay (Item 3790-301-036(14.5), $4,000,000) is necessary for general capital outlay needs of the State. The Parklands Fund of 1984 (Item 3790-301-722(36.1), $2,000,000) tentatively is allocated for projects that typically are closer to the state's urban centers and have the potential for serving more people.

Item 3790-001-001—For support of the Department of Parks and Recreation I reduce this item from $72,020,295 to $71,977,000 by reducing·

(a) 100000—Personal Services from $82,842,269 to $82,806,269,

(b) 300000—Operating Expenses and Equipment from $38,760,026 to $38,752,731.

I am reducing this item by $43,295 to reflect the following actions:

I am eliminating 2 personnel years and $36,000 added to the Audits and Concessions Office because these personnel years were proposed for reduction in the Governor's Budget due to increased efficiencies The Department has indicated that these functions can be carried out adequately with existing staff

I am eliminating the augmentation of $7,295 in operating expenses for the Scripps Beach lifeguard services because the Department has sufficient funds within operating expenses to meet these costs.

I have taken the opportunity to review the Legislature's action on contracting-out proposals which I initiated to encourage the development of innovative alternatives to traditional State operations with the intent of increasing the efficiency of the delivery of services to the public Although many of my proposals were adopted by the Legislature, the contracting-out proposal which would allow the Department of Parks and Recreation to use the advanced technology and expertise of the private sector for ownership mapping services was not accepted. In reviewing the basis for the Legislature's action, I have determined that this proposal continues to be an appropriate opportunity to contract-out I am therefore eliminating the three personnel years added by the Legislature which would allow the traditional delivery of services and will use the related funds to contract these services

Item 3790-101-001—For local assistance, Department of Parks and Recreation. I eliminate this item

I am eliminating this item by deleting appropriations for.

(1) 80.80.026—City of Galt, softball fields $100,000,

(2) 80 80.059—City of Avenal, Rice Park $133,000, and

(3) 80.80 095.055—Riverside—Chinatown Archaeological project $29,500.

I am also eliminating the budget control language relating to these projects as a conforming action.

As a general principle I do not favor use of the General Fund for local park and recreation grants. The Roberti-Z'berg-Harris Program, which is to commence in 1986–87, would be a more appropriate funding source for the projects in the Cities of Galt and Avenal if they were found to be competitive and otherwise met established criteria The project for the County of Riverside can apply for funding through the California Park and Recreational Facilities Act of 1984 as a project of historic significance.

Item 3790-101-036—For local assistance, Department of Parks and Recreation I reduce this item from $4,250,000 to $2,000,000 by eliminating:

(2) City of Sunnyvale, Sunnyvale Bayland Park $1,500,000, and

(3) City of Los Angeles for the Japanese American National Museum Foundation, Japanese American Museum $750,000,

and by deleting provision 1.

I am eliminating the augmentation of $1,500,000 for the City of Sunnyvale, Sunnyvale Bayland Park, because the Special Account for Capital Outlay generally is reserved for projects that provide significant benefit to the State. This project primarily provides a local benefit, and it should compete for funding from an established grant program such as the California Park and Recreational Facilities Act of 1984 or the Roberti-Z'berg-Harris program

I am eliminating the augmentation of $750,000 for the City of Los Angeles for the Japanese-American National Museum Foundation, Japanese-American Museum, because I am concerned about the seeming proliferation of appropriations related to museums and exhibitions that have been added to this Budget Bill Projects of this type are complex and deserve adequate study and review of the State's proper level of participation in their development or operation I am willing to work with the Legislature in the development of a process to assure full consideration of the State's role in projects of this type. I am also eliminating Provision 1 as a conforming action

Item 3790-101-140—For local assistance, Department of Parks and Recreation I reduce this item from $3,164,500 to $2,100,000
by eliminating:

(2) City of Downey, Olympic Pool Recreational Complex $500,000,
(3) City of Ripon, Mavis Stouffer Park $128,500,
(4) Pixie Woods Board of Directors, Pixie Woods Children's Park $80,000,
(5) County of San Joaquin, Oak Grove Regional Park, picnic shelter $44,000,
(6) County of San Joaquin, Micke Grove Park $58,000, and
(9) City of San Ramon, Vista San Ramon Community Park $254,000.

I am eliminating $1,064,500 for these six local assistance projects because they would be more appropriately funded from a source such as the Roberti-Z'berg-Harris Program in 1986–87 if they were found to be competitive and otherwise met established criteria. Projects such as these generally fail to meet the funding criteria that have been established for the Environmental License Plate Fund

Item 3790-101-190—For local assistance, Department of Parks and Recreation I eliminate this item

I am eliminating this item by deleting appropriations for

(1) City of Desert Hot Springs, Wardman Park $20,000,
(2) Lake Elsinore Recreation and Park District, Butterfield Park $150,000,
(3) Southgate Recreation and Park District, Resource-efficient prototype park $166,000, and
(4) City of Coachella, Bagdouma Regional Park—tennis courts $150,000.

Because these projects essentially benefit local areas, this proposed funding source is not appropriate. The Roberti-Z'berg-Harris Program, which is to commence in 1986–87, would be a more appropriate funding source for these projects if they were found to be competitive and otherwise met established criteria

Item 3790-101-722—For local assistance, Department of Parks and Recreation I reduce this item from $61,953,000 to $61,208,000, by reducing·

(a) from $28,403,000 to $28,273,000,
(b) from $5,265,000 to $4,950,000, and
(d) from $4,300,000 to $4,000,000

by eliminating:

(a) (130 1) City of Brawley, Hinojosa Park $70,000,
(a) (130.2) City of Brawley, Meserve Park $60,000,
(b) (22 1) County of San Joaquin, Durham Ferry $315,000, and
(d) (33 1) County of San Diego, Temple Beth Israel $300,000

I am eliminating the two local assistance grants amounting to $130,000 for the City of Brawley because these projects failed to compete favorably in the 1985–86 regional competitive bond fund allocation process under the California Park and Recreational Facilities Act of 1984. Two other projects in Brawley, however, were funded Similarly, the $315,000 project for San Joaquin County is being eliminated because it did not receive sufficient ranking in the competitive bond fund allocation process I am deleting $300,000 for Temple Beth Israel in San Diego because the Department of Parks and Recreation already has allocated $300,000 for the project during 1984–85

from the Roberti-Z'berg component of the California Park and Recreational Facilities Act of 1984.

Item 3790-301-036—For Capital Outlay, Department of Parks and Recreation. I reduce this item from $19,095,000 to $12,715,000 by reducing:

(12.5) 90 99.100—San Luis Reservoir SRA—Family Campground and Day Use Area—facility development from $1,500,000 to $120,000,

and by eliminating:

(2.5) 90.H6.100—Cuyamaca Rancho SP—Development $1,000,000, and

(14 5) 90.3P.400—Sinkyone Wilderness SP—acquisition $4,000,000.

The effect of my action is a net reduction of $6,380,000 in this item.

I am reducing the augmentation of $1,500,000 for the San Luis Reservoir SRA development to $120,000 to provide funding for preliminary plans and working drawings only. I recognize the need for additional development at this facility; however, without a well-defined scope of the proposed development, it is premature to fund the full project at this time.

I am eliminating the augmentation of $1,000,000 for the Cuyamaca Rancho SP development because it is premature to propose any new development prior to completion of the general plan for this park unit

I am eliminating the augmentation of $4,000,000 for Sinkyone Wilderness SP acquisition because higher priority capital outlay needs exist for the Special Account for Capital Outlay. I also note that this appropriation is coupled with funding from the Parklands Fund of 1984 (Item 3790-301-722(36.1)), and that fund has been recommended for use on higher priority projects closer to the State's population centers

Item 3790-301-722—For capital outlay, Department of Parks and Recreation. I reduce this item from $54,010,000 to $45,810,000 by reducing·

(36 4) 90 CS.400—South Monterey Bay Dunes ARCO Bosland property acquisition from $1,200,000 to $1,000,000.

and by eliminating

(4.1) 90.EC.400.000—Baldwin Hills SRA—Acquisition ($3,000,000),

(12.2) 90.9E.400 851—Delta Meadows Project—Acquisition ($500,000),

(15.3) 90.7P.100—Half Moon Bay SB—campground development $2,500,000, and

(36 1) 90.3P.400.851—Sinkyone Wilderness SP—Acquisition $2,000,000

The effect of my action is a net reduction of $8,200,000 in this item

I am reducing the augmentation of $1,200,000 for South Monterey Bay Dunes-ARCO Bosland property acquisition to $1,000,000 because the State's last appraisal of this property does not indicate a need for this additional amount

I am eliminating the augmentation of $3,000,000 for the Baldwin Hills SRA-Acquisition because I have approved an augmentation of $3,500,000 in this budget for development at Baldwin Hills which I consider to be a more appropriate use of funds.

I am eliminating the augmentation of $500,000 for the Delta Meadows Project-Acquisition. This acquisition should be deferred until there is resolution of issues which will result from the reduction in scope of the existing acquisition project at Delta Meadows caused by the high cost of a stipulated judgment pertaining to Southern Pacific right-of-way

I am eliminating the augmentation of $2,500,000 for the Half Moon Bay SB-campground development because this project, while meritorious, is quite costly, and this fund has limited reserves that will be needed to meet other pressing recreational needs.

I am eliminating the augmentation of $2,000,000 for the Sinkyone Wilderness SP-Acquisition because this fund source has limited reserves and has been recommended for higher priority projects closer to the State's population centers.

Item 3790-490—Reappropriation, Department of Parks and Recreation.

I am approving the reappropriation of Item 3790-301-722(25), Budget Act of 1984, as proposed in Item 3790-490, Category 722(4 5), Seccombe Lake SURA, in an amount not to exceed $1 million. I am reserving the remaining $2,176,000 of the appropriation and would support legislation to reappropriate this balance for development at Seccombe Lake, provided that all operational responsibilities and costs for this facility

are reassumed by the City of San Bernardino or another nonstate agency.

Item 3810-301-036—For Capital Outlay, Santa Monica Mountains Conservancy. I reduce this item from $8,474,000 to $2,475,000 by reducing:

(1) 20.10.015—Appraisals, project planning and design from $40,000 to $25,000, and by eliminating.

(4) 20.10 115—Lower Zuma Canyon—Acquisition $5,984,000,
and deleting Provisions 4 and 5.

The effect of my action is a net reduction of $5,999,000 in this item. I am eliminating the augmentation of $5,984,000 for the acquisition of Lower Zuma Canyon and deleting the related appraisal, planning, and design costs of $15,000 This acquisition would constitute a multi-year loan to the National Park Service from the Special Account for Capital Outlay and that fund is needed for higher priority projects.

I am also deleting Provisions 4 and 5 to conform with this action.

"4. Notwithstanding any other provision of law, if the National Park Service has not, within four years from date of acquisition, reimbursed the appraised market value of the property acquired in category (4), pursuant to Section 33204 of the Public Resources Code, the property shall be sold for fair market value by the Department of General Services, pursuant to Section 33205 of the Public Resources Code. Notwithstanding Section 11011 of the Government Code and Section 33205 of the Public Resources Code, the net proceeds from any property sold, or any reimbursement made, pursuant to this provision shall be deposited in the Special Account for Capital Outlay."

"5. No funds may be encumbered for acquisition pursuant to category (4) unless the Executive Director of the Conservancy certifies to the State Public Works Board that adequate assurances have been received from the Department of the Interior that reimbursement will be made within the time specified in Provision 4."

Item 3860-001-001—For support of Department of Water Resources. I reduce this item from $30,357,000 to $28,057,000 by reducing:

(a) 10—Continuing Formulation of the California Water Plan from $17,333,000 to $15,033,000.

I am reducing this $4,450,000 legislative augmentation by $2,300,000, for selenium-related projects and deleting Provision 2.

"2. Of the amount appropriated in this item, $1,500,000 shall be to establish, pursuant to an interagency agreement with an appropriate state educational institution, a comprehensive service laboratory for analysis of water, soil, and air systems associated with agriculture in order to implement AB 791 of the 1985–86 Regular Session. $2,500,000 shall be for a study to operate, under controlled conditions, a water delivery system in the Grassland Water District in order to minimize the impacts on water quality in the San Joaquin River and on groundwater supplies and the habitat in the District $450,000 shall be to purchase water from the federal Central Valley Project to provide water as part of a study to improve water quality in the San Joaquin River "

This $2,150,000 funding augmentation for the Department of Water Resources is in addition to $2,270,000 included for the State Water Resources Control Board and $651,000 for the University of California, for a total program of $5,071,000. I believe this $5,071,000 program represents a comprehensive state response to the selenium problem in California.

I am directing the Department of Water Resources to use the $2,150,000 as follows: $1,100,000 to improve the water delivery system in the Grassland Water District, $450,000 to contract with the University of California for lab analyses of trace elements, $400,000 to upgrade the Department of Water Resources' chemistry laboratory at Bryte, $120,000 to investigate desalting technologies, and $80,000 to augment the Agricultural Drainage Monitoring Program. The Department of Finance will submit a Section 28 notification letter to the Legislature prior to the expenditure of $1,050,000 in funding redirected from the comprehensive service laboratory to some of the above-mentioned activities

Item 3860-101-001—For local assistance, Department of Water Resources. I reduce

this item from $19,800,000 to $19,500,000 by reducing:

(b) Delta Levee Subventions from $2,000,000 to $1,700,000.

I am reducing this item by the $300,000 legislative augmentation to the Delta Levee Subventions program. While I have been supportive of additional funding for delta levees as part of an overall, comprehensive water management program, I believe the remaining $1,700,000 local assistance budget is adequate to maintain the Sacramento-San Joaquin Delta levees This amount conforms to the State's standard for maintenance of the delta levees under current law.

Item 3860-101-140—For local assistance, Department of Water Resources. I eliminate this item.

I am eliminating $100,000 added by the Legislature for a waste water reclamation project for the Monterey Peninsula Water Management District, as well as control language in Provision 1 regarding the project The project would use water hyacinths to treat waste water. I believe that more information is needed on the benefits of the project to the State before State funds are budgeted for this purpose

Item 3940-001-001—For support of the State Water Resources Control Board. I reduce this item from $36,833,000 to $27,975,000 by reducing·

(a) 10—Water Quality from $52,012,000 to $41,947,000,

(i) Amount Payable from the Surface Impoundment Assessment Account, General Fund (Item 3940-001-482) from —$2,729,000 to —$2,095,000, and

(1) Amount Payable from the General Fund (Item 3940-011-001) from —$153,000 to —$80,000, and

by eliminating

(ff) Amount Payable from the California Environmental License Plate Fund (Item 3940-001-140) —$500,000,

revising Provisions 1 and 2,

and deleting Provisions 3 and 4

I am reducing this item by $8,858,000 to reflect the following actions

The elimination of an augmentation of $300,000 and 6 personnel years for additional enforcement staff Increases of $1,349,000 and 23 7 personnel years have already been provided in the budget which bring the total resources for enforcement activities to $2,815,000 and 60.7 personnel years.

The elimination of an augmentation of $7,600,000 and 167 personnel years for an expanded underground tank cleanup program I am maintaining this program at the level of $3,771,000 and 60 8 personnel years which I proposed in January. This approach relies on local agency oversight over all but the most major of the anticipated cleanup efforts The approach taken by the Legislature in this augmentation would have the State, rather than local government, oversee all cleanup. This type of major policy change should be addressed through specific legislation and not the Budget Bill

The reduction of $129,000 from an augmentation of $2,399,000 and 9 3 personnel years to study selenium and other trace elements throughout the State. The Board has provided a detailed workplan requiring only $2,270,000 to perform these studies I am also revising Provision 2 which requires $700,000 be used to study the San Francisco Bay because sufficient Federal and State resources will be dedicated for this purpose. However, the Department of Finance will submit a Section 28 request to the Legislature prior to expenditure of those funds redirected from the San Francisco Bay study.

The elimination of an augmentation of $106,000 and 1 personnel year for a management system to track the progress of the cleanup of groundwater contamination sites This augmentation was to provide contingency funding for a portion of a pilot program negotiated by the Board with the Environmental Protection Agency. I will address the potential Federal grant through the normal process.

The reduction of $423,000 and 8.5 personnel years from an augmentation of $765,000 and 17 personnel years to provide additional resources for the updating and issuance of waste discharge orders. The remaining resources, $342,000 and 8 5 personnel years, represent the increase to this regulatory program as recommended by the legislative task force on toxics contamination This will provide a total of $4,742,000 and 80 3 personnel years for this effort

The elimination of an augmentation of $100,000 and 1.9 personnel years to prepare a management strategy to minimize the spread of groundwater contamination through active and abandoned wells. I am eliminating this augmentation because the Board already has over 600 personnel years in the budget to address priority water quality problems.

The elimination of an augmentation of $200,000 and 3 8 personnel years to provide for additional regional Board public participation and public information. Regional Boards were formed to allow the public access to the water quality and water rights decision making process and, as such, there should be no need for additional staff for public participation In addition, regional board management should already be actively providing public information and should not require additional staff for this purpose.

The elimination of an augmentation of $500,000 from the amount payable from the Environmental License Plate Fund to provide funding to study the toxicity of the New River. This international problem should be addressed in separate legislation such as AB 1012, which concerns both the Tijuana and New River problems However, AB 1012 in its current form has serious shortfalls in that it relies entirely on state financial support and no form of support from either the Federal Government or the Government of Mexico. The State cannot control or stop the pollution of the New River because it occurs on the Mexican side of the border I am reducing this subitem to correspond to Item 3940-001-140.

The reduction of $634,000 and 15.8 personnel years from an augmentation of $834,000 and 19.8 personnel years from the amount payable from the Surface Impoundment Assessment Account, General Fund for staff for the toxic pits program. The budget already includes $222,000 and 6 5 administrative and supervisory positions added for the toxic pits program In addition, the base budget includes a total of over 100 clerical positions This should be a sufficient amount of administrative, clerical, and supervisory positions for the program. However, I agree with the Legislature that 48 technical positions should be available December 1, 1985 as opposed to the original plan of having these positions available January 1, 1986 I am reducing this subitem to correspond to Item 3940-001-482.

The reduction of $73,000 and 2 personnel years which the Legislature specified for enforcement and other activities at the Lahontan Regional Water Quality Control Board. Additional Staff are unnecessary because this work is currently being performed even though the positions have been vacant for some time. (The budget proposed elimination of these positions but the Legislature reestablished them)

I am revising Provisions 1 and 2 to conform to the above actions as follows.

"1 ~~$14,054,000~~ *$4,062,000* of the amount appropriated for category (a) Water Quality shall be used to add staff and for associated resources according to the following schedule:

~~(a) Underground tanks cleanup oversight (167 personnel years) .. 7,600,000~~

(b) Selenium studies (9 3 personnel years) ~~2,399,000~~ *2,270,000*

(c) Investigation and enforcement related to contaminated drinking water wells (18.0 personnel years) 1,000,000

(d) Update waste discharge orders (~~17 0~~ *8.5* personnel years) ~~765,000~~ *342,000*

~~(e) Enforcement (6.0 personnel years) 300,000~~

(f) Toxic Pits regulation (~~19.8~~ *4 0* personnel-years) ~~831,000~~ *200,000*

~~(g) Pilot computerized tracking system (1.0 personnel/year) 106,000~~

~~(h) Abandoned wells (1 9 personnel/years) 100,000~~

~~(i) Public participation (3.8 personnel/years) 200,000~~

(j) Russian River Monitoring (1 0 personnel-year) 250,000

~~(k) New River monitoring 500,000~~"

"2 Of the amount appropriated for category (a) Water Quality for selenium and trace element studies, ~~$2,399,000~~ *$2,270,000* shall be for a statewide survey of 12 elements, including selenium, to determine their effects on the environment and the public health, to specify necessary protective actions, and to expand

laboratory capacity to meet ongoing needs. ~~Of the $2,399,000, $700,000 shall be used to study the San Francisco Bay.~~"

I am deleting Provisions 3 and 4 to conform with the above actions as follows:

"~~3. $100,000 of the amount appropriated for category (a) Water Quality to the San Francisco Bay Area Water Quality Control Board for a public participation program shall be reduced by any federal funds received by that regional board for the same purpose.~~"

"~~4. Of the amount appropriated by this item, 35 personnel years and $1,750,000 shall be allocated to the San Francisco Bay Area Regional Water Quality Control Board and 25 personnel years and $1,250,000 shall be allocated to the Los Angeles Regional Water Quality Control Board for work related to leaking underground tanks. At least 10 personnel years allocated to the Los Angeles Regional Water Quality Control Board shall be assigned to activities in the San Gabriel Valley. Any allocation that is different from that described by this provision shall require prior notification to the legislature.~~"

Item 3940-001-140—For support of the State Water Resources Control Board. I eliminate this item.

I am eliminating this item in the amount of $500,000 to conform to my action on Item 3940-001-001. This eliminates the amount payable from this item to Item 3940-001-001.

Item 3940-001-482—For support of the State Water Resources Control Board. I reduce this item from $2,729,000 to $2,095,000

I am reducing this item by $634,000 and 15 8 personnel years to conform to my action on Item 3940-001-001. This eliminates the amount payable from this item to Item 3940-001-001.

Item 3940-011-001—For support of the State Water Resources Control Board I reduce this item from $153,000 to $80,000 and delete the related control language

I am reducing this item by $73,000 and 2 personnel years to conform to my action on Item 3940-001-001 This eliminates the amount payable from this item to Item 3940-001-001.

In line with my actions on this item, I am deleting Provision 2

"2. The State Water Resources Control Board shall use not less than $73,000 of these funds to reinstate 2 0 personnel years for enforcement and other activities in the Lake Tahoe Basin provided by Lahontan Regional Water Quality Control Board."

Item 3940-101-144—For local assistance, State Water Resources Control Board. I eliminate this item.

I am eliminating this item in the amount of $7,500,000 for the Tijuana River cleanup because this is an international problem that requires an international solution The United States Government must take a lead in resolving this problem by securing the cooperation of the Mexican Government. Although the 1984–85 budget included $5,500,000 for the Tijuana River, the funds were specifically designated to be used to match federal funds Recent problems in the negotiations with the Mexican Government, however, have diminished the possibility of future federal funding In addition, AB 1012, which addresses both the Tijuana River and the New River problems, already includes the funding proposed by this augmentation.

Item 4120-101-001—For local assistance, Emergency Medical Services Authority I reduce this item from $783,840 to $753,840.

I am reducing this item by $30,000 to eliminate an augmentation to support the training of one technician for the Northern California Local Emergency Medical Services (EMS) Agency. The augmentation would not have contributed to program compliance or development. My action will provide a total of $2.4 million in local assistance funding ($753,840 in General Funds and $1,685,000 in federal funds) to support local EMS agencies

Item 4140-001-001—For support of The Office of Statewide Health Planning and Development I change this item by changing the following category amounts.

(a) 100000—Personal Services from $8,742,539 to $8,614,630,

(b) 300000—Operating Expenses and Equipment from $8,848,744 to $8,825,370,

(d) Reimbursements from −$5,199,283 to −$5,048,000, and

deleting Provision 1.

The Legislature provided the Office $151,283 in increased expenditure authority from reimbursements and 3.7 personnel years effective January 1, 1986, to ensure that the Office has adequate staff resources to meet the public liaison, technical assistance and research analysis functions pursuant to Chapter 1326, Statutes of 1984. This statute provides for the transfer of the health facility data collection and reporting functions from the California Health Facilities Commission to the Office effective January 1, 1986. I am reducing reimbursements by $151,283 and the 3.7 personnel years because the public liaison functions currently performed by the commission will be provided by the Office's public information office The technical assistance for data collection and reporting requests will be handled by the Office's data processing staff of 16 personnel years and $1,063,821. Chapter 1326, Statutes of 1984 limits the scope of the reporting data, thereby reducing the workload of the research and analysis staff I am confident that these tasks, as well as the ongoing statutory requirements for the consolidation, will be met without restoring these positions.

I am also deleting Provision 1 to conform with this action.

Item 4140-101-001—For local assistance, Office of Statewide Health Planning and Development for Health Professions Development (Family Physician Training). I reduce this item from $3,000,000 to $2,880,000.

I am reducing this item by the $120,000 added by the Legislature to provide a 4 percent cost-of-living adjustment for the Family Physician Training Program. Cost-of-living adjustments are generally allocated to programs where funds or medical services are directly provided to the program participants. This program does not provide direct funds or services Therefore, it is inappropriate to base the program level on a formula which has no apparent relationship to need

Item 4170-101-001—For local assistance, Department of Aging. I reduce this item from $22,327,000 to $19,458,000 by reducing:

(a) 10—Nutrition from $61,239,000 to $59,859,000,

(1) 10.10—Congregate Nutrition from $46,209,000 to $45,025,000,

(2) 10.20—Home Delivered Nutrition from $15,030,000 to $14,834,000,

(c) 30—Supportive Services and Centers from $27,046,000 to $26,061,000,

(d) 40—Special Projects from $5,824,000 to $5,320,000,

and deleting Provision 3

I am reducing $1,380,000 from Nutrition, $985,000 from Supportive Services and Centers, and $4,000 from Special Projects because I do not believe that the General Fund should provide a discretionary cost-of-living increase for the federally funded portion of these programs. However, I have retained $538,000 to provide a 4 percent cost-of-living increase to the General Fund portion of the Nutrition and Supportive Services and Centers programs

I am reducing $500,000 from the $1,000,000 legislative augmentation for the expansion of the Linkages Program Although, I believe that the 10 Linkages Projects initially funded in the Budget would provide sufficient data to evaluate this program, I am retaining $500,000 to fund two or three additional sites in Southern California in order to achieve an equitable geographical distribution of sites

I am also eliminating Provision 3 related to this augmentation because the appeal process provided for in the language would limit the department's ability to reconsider all of the unfunded proposals in order to select the highest quality projects that would address the issue of geographical equity.

"3 (a) Applicants not selected, and who appealed the director's decisions on the initial 10 sites, shall have the right to appeal the director's decision to the Department of General Services. If the department finds in favor of an applicant, the department shall fund that project from funds appropriated in this item

(b) If funds are available after the appeal process is completed, the department shall establish, by January 1, additional linkages sites for a maximum of 15 linkages sites around the state. These sites shall be selected from either the list submitted to the director by the Long Term Care Committee or from the top 10 projects ranked by the department staff. In making these selections the director shall give priority to projects that (a) provide a

balanced geographic and demographic distribution of the 15 linkages sites, and (b) serve a large population of minority and poor elderly in their community.

Sites not selected shall be able to appeal the director's decision to the Department of General Services."

Item 4200-001-001—For support of Department of Alcohol and Drug Programs. I reduce this item from $6,900,000 to $6,882,000 by reducing:

(a) 10—Alcohol Programs from $4,716,000 to $4,698,000

I am reducing the augmentation of $18,000 for the department to increase operating expenses for the Alcohol Recovery Facility Licensing activity. The department operating expense budget is $2.4 million. There is no evidence that it cannot produce cost efficiencies within this amount so as not to impact the level of services provided.

Item 4200-101-001—For local assistance, Department of Alcohol and Drug programs. I reduce this item from $82,732,000 to $71,722,000 by reducing:

(a) 10—Alcohol Program from $54,765,000 to $49,287,000,

(b) 20—Drug Program from $62,378,000 to $56,846,000, and

deleting Provisions 3 and 4

I am reducing this item by the $11,010,000 augmentation that was provided as the initial step in funding all counties at a specific standard The different per capita allocations of Alcohol and Drug funds to the various counties are the result of years of individual programmatic decisions and allocations made for these activities by the county, state and federal governments Given the fact that these differences were based upon meeting specific needs in specific areas it is not appropriate to now argue that all counties should have an equalized amount of funds. Since the present distribution was based upon specific needs, any increase in this program should be made in the same manner.

I am deleting Provisions 3 and 4 to conform to this action:

"3. $5,478,000 of the amount scheduled in Item 4200-101-001 shall be allocated to those county alcohol programs with state and federal per capita allocations less than the statewide average, so that no county's per capita allocation is less than $1.74."

"4. $5,532,000 of the amount schedule in Item 4200-101-001 shall be allocated to those county drug programs with state and federal per capita allocations less than the statewide average, so that no county's per capita allocation, based on the Touche-Ross 50-30-10-10 formula is less than $1.94 The department shall also make additional allocations, to assure that no county's per capital allocation is less than $1.94."

Item 4200-101-890—For local assistance, Department of Alcohol and Drug Programs. I am deleting Provisions 3 and 4 to conform to my veto of the funding augmentation in Item 4200-101-001

"3. $502,000 of the amount scheduled in Item 4200-101-890 shall be allocated to those county alcohol programs with state and federal per capita allocations less than the statewide average, so that no county's per capita allocation is less than $1.74 "

"4. $372,000 of the amount scheduled in Item 4200-101-890 shall be allocated to those county drug programs with state and federal per capita allocations less than the statewide average, so that no county's per capita allocations less than the statewide average, so that no county's per capita allocation, based on the Touche-Ross 50-30-10-10 formula, is less than $1.94. The department shall also make additional allocations, to assure that no county's per capita allocation is less than $1.94."

Item 4260-001-001—For support of Department of Health Services I reduce this item from $123,142,486 to $111, 945,050 by reducing:

(a) 100000—Personal Services from $146,762,225 to $143,719,427,

(b) 300000—Operating Expenses and Equipment from $124,437,428 to $115,040,412,

(d) Reimbursements from −$8,843,799 to −$8,729,000,

(e) Amount payable from the Hazardous Waste Control Account, General Fund (Item 4260-001-014) from −$17,180,903 to −$16,364,485,

(g) Amount payable from the Genetic Disease Testing Fund (Item 4260-001-203) from −$17,024,195 to −$16,964,921, and

(k) Amount payable from the Federal Trust Fund (Item 4260-001-890) from −$86,653,034 to −$86,401,147, and

deleting Provisions 5, 20, 21, 23, 26, 29, 30, 31, 32, 33, 36, 38, 45, 46, 47, 48, 49, 56, 58, 59 and 66 and revising Provisions 35 and 39.

I am deleting Provisions 20 and 21, added by the Legislature, which would restrict expenditure of appropriated funds for development of drinking water standards

"20 The department shall develop, at a minimum, three primary drinking water standards (maximum contaminant levels) during the 1985–86 fiscal year from among the following organic chemicals: trichloroethylene (TCE), 1,1,1-trichloroethane (TCA), perchloroethylene (PCE), ethylene dibromide (EDB) and dibromochloropropane (DBCP) and develop five action levels (health advisories), as appropriate

In developing maximum contaminant levels the department shall, in cases of scientific ambiguity, use the criteria most protective of public health and incorporate the following considerations:

(a) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

(b) The exposure of contaminants in media other than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants

(c) Possible synergistic effects resulting from exposure to, or interaction by two or more contaminants

(d) The contaminants exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness

The department shall not award any contract for the development of maximum contaminant levels until such time as conflict of interest guidelines have been developed

Not more than $1,400,000 shall be spent on the development of primary drinking water standards, which shall be based on the state statutes in effect on July 1, 1985."

"21 Of the amount appropriated by this item $2,600,000 shall not be available for expenditure until such time as legislation has been chaptered the provisions of which

(a) Immediately establish interim public health drinking water standards for at least 30 organic chemicals, and

(b) Set forth specific public health criteria for the development of maximum contaminant levels."

The language requires enactment of legislation providing interim health standards and specifying public health criteria for maximum contaminant levels The provisions constitute undue restrictions upon Executive authority and I believe it is unconstitutional to appropriate funds conditional on future legislative action

I am eliminating a legislative augmentation of $450,000 to develop a pilot study of treatment and management strategies for improving water quality affected by organic chemicals I have already included $4,000,000 in the budget for the development of drinking water standards As part of the development process for these standards, each contaminant will be reviewed through a technical and economic feasibility study which will focus on the available treatment technology I am also deleting Provision 23 to conform with this action.

"23 Of the amount appropriated by this item, $450,000 shall be used to conduct a special pilot study on treatment technologies and management strategies for improving water quality affected by organic chemicals and trihalomethanes provided that

(a) $25,000 shall be available immediately, contingent upon the availability of an equal amount from private sector companies in Santa Clara County, to review available literature regarding drinking water treatment technologies and develop an appropriate work plan to evaluate these technologies, and

(b) An additional amount of $425,000 shall be available for execution of the

work plan, contingent upon the availability of matching funds of $150,000 from the Santa Clara Valley Water District and an additional $275,000 from private sector companies in Santa Clara County."

I am deleting Provision 5, added by the Legislature, which would require a report within thirty days after a month in which the salary savings exceeds 9.5 percent.

"5. The Department of Health Services shall submit a report within 30 days of the end of each month to the chairperson of the fiscal committee of each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee if, in any given month, the department's salary savings rate exceeds 9.5 percent. The first report shall be due September 30 and shall cover the July and August pay periods. The report shall identify the reason for the excess savings and the steps the department plans to take to ensure that budgeted positions are filled."

It was the intent of this language to report shifts of salary savings in excess of 1 percent of the amount budgeted. The effect of my actions upon this budget raised the budgeted salary savings level to 9.3 percent. If this language remains operative, given the small difference between the budgeted level and reporting threshold of 0.2 percent, the department would have to report monthly. This clearly was not the intent of the Legislature and my actions on dollar issues has essentially made this language inoperable. However, I am directing the Director of Finance to furnish the Legislature with periodic reports on statewide salary savings

I am eliminating a legislative augmentation of $1,291,406 to restore specified unallocated reductions My budget included unallocated reductions for all state departments with varying amounts dependent upon the amount of General Fund in each department's budget. These reductions were intended as a means to maximize existing program efficiencies to provide resources for new programs. The department has consistently identified General Fund savings of at least $2,000,000 during the last three years and, therefore, can meet this reduction.

I am eliminating a legislative augmentation of $1,430,591 in this item, $186,282 from other funding sources, and 38 6 personnel years which provide for the restoration of funds and positions associated with a reorganization of the Preventive Health Services Division because the department can continue the program without these resources. I am committed to reducing the size of the bureaucracy, particularly when it can be done through a realignment of resources which maintain current services. The department has provided evidence that the remaining $36,603,822 and 1,328.3 positions will provide sufficient resources so as not to adversely affect program performance. I am also deleting Provision 26 to conform with this action

"26. The Department of Health Services is prohibited from implementing a preventive health services reorganization proposal until 30 days after it provides a report to the Legislature which·

(a) Meets the requirements of the law regarding the Rural Health Division.

(b) Details position changes associated with the proposal, absent any other department proposals, and provides specific justification for any position increases or decreases.

(c) Describes the need for and benefits of the reorganization."

I am eliminating a legislative augmentation of $225,439 in this item, $272,096 in subsidiary items and 11.5 personnel years which reinstate funding and positions associated with the department's identification of non-critical administrative staff. I directed each department and agency to review its complement of administrative staff and eliminate those positions which were not integral to the delivery of public services I believe that we must do everything possible to eliminate and not perpetuate unnecessary bureaucracy.

I am reducing this item by $362,000 because I question the benefits to be derived from expanding the cancer registry to 27 counties at this time. I believe it would be imprudent to expand the registry program to a level that is beyond the recommendation of a recent report to the Legislature prepared by the department on this subject. The report concluded that an eleven county expansion is adequate to meet the objectives of the program I have proposed to include an additional $1,238,000 and 1.8 personnel years over the current level of state funding ($538,000) to expand the program to eleven new counties This increase offers an adequate

sample and I believe further expansion would be premature I am also deleting Provision 29 to conform with this action.

"29 The department shall implement cancer registries in the following counties Amador, El Dorado, Fresno, Kern, Kings, Lassen, Madera, Merced, Monterey, Sacramento, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, Ventura, and Yolo Any funds not used to implement the cancer registry shall revert to the General Fund. The department shall maintain data that identify the actual cost of implementing a cancer registry. Funds appropriated for the purpose of implementing a cancer registry shall be used only for that purpose "

I am eliminating the $365,000 legislative augmentation and 6 9 personnel years to conduct risk assessments of water contamination resulting from underground tank leaks The department's role regarding the contamination of water is to assure that the quality of drinking water is safe for consumption. The 1985–86 Governor's Budget proposes a $6.4 million expenditure program for the department to ensure that drinking water is safe. Specific augmentations are proposed to develop and adopt maximum contaminant levels for thirty water contaminants within three years In addition, the department will establish action levels for any new contaminants discovered. I believe it is more effective to focus our efforts on assessing the water supplies themselves rather than to investigate one among the many possible sources. I am also deleting Provision 30 to conform with this action

"30. Of the amount appropriated by this item, $365,000 should be used to assist the 9 regional water quality control boards in cleaning up contamination from leaking underground storage tanks The department shall provide expert advice and assistance to the state regional water boards on matters relating to the health effects of toxic substances in water supplies and the cleanup on contamination or pollution from leaking underground tanks and other sources Such advice and assistance shall include, but not be limited to.

(a) Assistance in developing procedures and protocols for assessing risks resulting from leaking underground tanks.

(b) Preparation of toxicological risk assessments

(c) Expert testimony.

(d) Assistance in preparing public information and educational materials."

I am reducing this item by $2,323,000 added by the Legislature to expand the Birth Defects Monitoring Program to 25 counties. This will continue the current level of funding of $467,000 and 8 positions for five counties. Future expansion will be considered subsequent to a progress report to be submitted by the department on the project in the Fall of 1985. It would be premature to augment this item for this program until the progress report has been reviewed. I am also deleting Provision 31 to conform with this action.

"31 Of the amount appropriated by this item, the sum of $2,323,000 shall be allocated without regard to fiscal years, for the purpose of implementing Division 9.5 (commencing with Section 10800) of the Health and Safety Code as follows:

(a) To expand the Birth Defects Monitoring Program by contracting with the Counties of Fresno, Sacramento, Orange, Merced, Monterey, Santa Cruz, Solano, Yolo, Yuba, Sutter, Nevada, Amador, Calaveras, Stanislaus, Placer, Tuolumne, Colusa, Humboldt, San Joaquin, and Del Norte 2,016,000

(b) To purchase new computer and computer-related equipment and services for the Birth Defects Monitoring Program . ... 307,000"

I am reducing this item by the $500,000 and 5.9 personnel years added by the Legislature for the department to establish an Occupational Health and Disease Prevention Program. Primary responsibility for investigating concerns about health and disease associated with the workplace has been given to the Department of Industrial Relations through its Occupational Safety and Health Administration program This legislative augmentation would bifurcate the State's efforts to ensure worker health and safety and result in a less effective use of resources I am also deleting Provision 32 and 33 to conform to this action

"32 The Department of Health Services shall establish an Occupational Health and

Disease Prevention Program. The program shall be directed toward:

(a) Establishing an effective occupational disease surveillance program and developing baseline data to be used by epidemiological and occupational health researchers and the Department of Industrial Relations.

(b) Providing technical assistance to local health agencies and other state agencies regarding occupational health issues

(c) Providing specialized training and technical assistance to local health agencies and other state agencies regarding occupational health issues "

"33. The department shall establish 6 positions and allocate $500,000 from this item for the following activities.

(a) Assessing and evaluating deficiencies in existing surveillance mechanisms including but not limited to physicians First Reports of Occupational Illness, employers First Reports of Occupational Illness, ongoing death certificate studies, and the Northern California Tumor Registry

(b) Working with other state and local agencies to improve the utility and validity of existing data bases for surveillance of occupational exposures, morbidity and mortality

(c) Working with other programs within the Department of Health Services to generate data pertinent to the study of occupational morbidity and mortality Such programs shall include but not be limited to the Birth Defects Monitoring Program, Resource for Cancer Epidemiology, and the Center for Health Statistics

(d) Establishing with local health agencies, private health practitioners, and the Northern and Southern California Occupational Health Centers, pilot surveillance systems for occupational disease

(e) Providing medical, statistical, and epidemiological assistance to counties to investigate and evaluate occupational health problems

(f) Establishing a health hazard evaluation program to which county and other state agencies may refer matters for investigation

(g) Providing epidemiological consultation to Cal/OSHA "

I am revising Provision 35, the control language added to schedule the legislative augmentation for AIDS-related activities These changes are necessary to conform to my actions on these individual augmentations The specific changes are as follows

"35 Of the funds augmented to this item ~~$6,335,000~~ *$3,012,000* shall be allocated ~~as follows:~~

~~(a) $85,000 to develop informational educational materials on AIDS.~~

~~(b) $1,500,000 to train crisis center staff on AIDS treatment and the ELISA test.~~

~~(c) $150,000 for an evaluation of educational materials developed.~~

~~(d) $100,000 to support an office of AIDS ombudsman within the department, the ombudsman shall be appointed by the director.~~

~~(e) $250,000 to educate home health agency and attendant care workers.~~

~~(f) $4,250,000~~ for information and education grants."

I am reducing this item by $85,000 added by the Legislature to develop educational materials related to the AIDS antibody blood test AB 488 (Chapter 23, Statutes of 1985), already appropriates $275,000 for education materials related to the blood test. There are many unknowns about the potential costs related to the AIDS antibody test This is primarily due to the fact that the test was only approved on March 2, 1985 and has not been available long enough to determine an average sample of the number of people who will take the test. I believe that the funds appropriated in AB 488 should be expended prior to adding additional funds I am also deleting Provision 36 to conform with this action.

"36 $360,000 of the funds appropriated by this item shall be used to develop the following:

(a) Audio and video materials for a media campaign that informs the general public that (1) the ELISA test does not diagnose AIDS and (2) it is safe to give blood.

(b) Written and video materials for individuals considering use of the ELISA test which clarify that the ELISA test is not a diagnostic test

(c) Written and video materials providing health professionals with basic

information concerning the test and its potential psychological effects."

I am reducing this item by $1,500,000 added by the Legislature to train crisis center staff to treat and provide short-term counseling to AIDS test patients AB 488 appropriates $5 million for the department to administer the AIDS antibody blood test program. These funds are used in part to provide information and referral services to AIDS test patients Other than medical information that should be provided by the patient's physician, this is a mental health issue, not one of public health There are currently mental health programs in place to address these needs. The mental health budget proposes a $40 million block grant program which could be used for AIDS-related mental health needs I am also deleting Provision 38 to conform with this action.

"38. The department shall adhere to the following requirements when spending the $1,500,000 augmentation for mental health needs arising from the HTLV-III Anti-bodies test

(a) The funds shall be spent on (1) training staff in crisis centers on the treatment of AIDS patients or (2) short-term counseling, not to exceed five visits per individual, for individuals who have taken the ELISA test and need additional counseling.

(b) The department shall develop the request for proposals in conjunction with the Department of Mental Health

(c) Funds shall be allocated through the competitive bid process established by Chapter 1257 of the Statutes of 1983.

(d) The department shall include in the request for proposals, language that authorizes grantees to accept donations from those receiving services."

The Legislature augmented this item by $4,250,000 to meet the increased need for AIDS-related information and education projects. Given the tremendous increase in public concern and misconceptions about AIDS, it is evident an adequate amount of state resources are needed to increase public information about this disease My original budget included $1,238,000 for this activity and, therefore, I am reducing this augmentation by this $1,238,000. This additional $3,012,000 will allow the full $4,250,000 to be available to meet the cost of the projects in this area. I am also deleting this portion of Provision 39 requiring the department to make the educational materials available in other languages as needed.

"39. The department shall ensure that ~~(a) educational materials on AIDS are made available in languages other than English, as needed, and that (b)~~ agencies receiving information and education funds coordinate their plans to avoid duplication of effort."

The language is nebulous in that the term "as needed" does not provide sufficient specificity to permit the program to be reasonable. I believe this provision could prove extremely expensive for a very limited benefit.

I am reducing this item by $100,000 added by the Legislature to establish the Office of the AIDS Ombudsman. The department's reorganization plan, effective July 1, 1985, establishes an AIDS unit and I believe that staff in this unit could assume the ombudsman functions without additional funds.

I am reducing this item by $927,000 added by the Legislature to provide state funds for hypertension control activities. The $1 8 million program which I proposed provides a reasonable level of support for the department to contract with ten Regional Hypertension Control Areas which serve the ethnic populations, the professions, and the geographical areas for which this augmentation was proposed Also, this program has been 100 percent federally funded since it was established in 1976 and I see no reason to now expand it with General Funds. I am also deleting Provisions 45 through 47 and Provision 66 to conform with this action.

"45. The department shall ensure that Hypertension Control areas, shall subcontract with the Asian Pacific Islander Task Force, the East Los Angeles Task Force, and the Martin Luther King-Drew Medical Center for no less than $60,000 each."

"46. Of the amount appropriated by this item, $747,000 shall be used to fund hypertension control services for identified hypertensive patients of target ethnic groups in Los Angeles, the San Francisco Bay Area, Fresno, and San Diego."

"47. The department shall periodically evaluate the hypertension control services provided to determine their effectiveness in assisting patients to maintain preferred treatment regimes."

"66. Of the amounts appropriated for hypertension control projects, $180,000 shall be used to conduct a study on stress and hypertension among bus drivers."

I am reducing this item by $150,000 added by the Legislature to evaluate information and education contracts for AIDS The budget proposes seven new positions for surveillance and monitoring of information and education contracts. I believe that these positions are sufficient to perform the evaluations that are proposed. I am also deleting Provision 48 to conform with this action.

"48. The department shall issue contracts to evaluate the effectiveness of the AIDS information and education materials produced by its contractors and shall submit a written evaluation to all appropriate parties."

I am reducing this item by $250,000 added by the Legislature to provide an educational program for hospital and home health care personnel The Federal Center for Disease Control has published AIDS guidelines for health professionals, and the Department of Health Services has sent this information to local health facilities as a reference when treating AIDS patients. Therefore, I question the benefit to be derived from this augmentation. I am also deleting Provision 49 to conform with this action.

"49 The department shall spend $250,000 on education of hospital, home health agency and attendance care workers In expending the funds, the department·

(a) Shall ensure that educational materials shall be developed in languages other than English

(b) Shall allocate funds through the competitive process established by Chapter 1257 of the Statutes of 1983

(c) Shall ensure that local agencies allocated funds coordinate plans to avoid duplication of effort "

I am deleting Provision 59 which directs the Department to propose regulations by June 30, 1986 to restrict specified wastes from land.

"59 The Department of Health Services shall complete a study which identifies types or categories of hazardous wastes which should not be placed in or onto the land due to the toxicity, persistence, mobility or bioaccumlative properties of the waste The department shall propose regulations by June 30, 1986, to restrict these wastes from land disposal."

I believe such a short timeframe is unrealistic and will not allow the department to develop workable regulations. The United States Congress has adopted a five-year timetable for study and banning specified wastes from landfill. I am in agreement with the five-year timetable as I believe it is more realistic.

I am vetoing the legislative augmentation of 4.5 personnel years and $250,000 from the Hazardous Waste Control Account for the Abandoned Hazardous Waste Site Assessment Program. The Legislature directed the department to survey rural, unsurveyed counties to detect abandoned hazardous waste sites The department has completed an Abandoned Site Project and is now doing extensive follow-up which is federally funded Since they have already surveyed all counties that would have potentially had an abandoned site, which included rural counties, it would not be an effective use of funds to survey the remaining rural counties I am also deleting Provision 56, which would have specified the procedures the department was to follow in implementing the Abandoned Site Assessment Program.

"56 In 1985–86, the department shall survey rural, unsurveyed counties to detect sites that pose a potential threat to the public health and the environment. The following procedures shall be used in surveying counties to detect potential hazardous waste sites (a) review history of hazardous materials and waste generation in the county; (b) review available information from county/local agencies and the Regional Water Quality Control Boards, and (c) conduct initial assessments for all potential sites identified."

I am eliminating the $34,000 added by the Legislature from federal funds to restore a position to the California Medical Assistance Commission which is partially funded from the Medicaid Program through this item. The position is one of 8 that negotiates contracts with hospitals serving Medi-Cal beneficiaries. Past workload and vacancy

experience do not indicate a need for this position. This action is consistent with the action in Item 4270-001-001

I am also reducing this amount payable item by $205,678 to eliminate funding for non-critical administrative positions identified by the department. I am further reducing this amount payable item by $12,209 to recognize program efficiencies also identified by the department. These actions are consistent with actions taken on Item 4260-001-890

I am reducing the amount payable item from Item 4260-001-014 by $250,000 added by the Legislature for the Abandoned Hazardous Waste Site Assessment Program. I am also eliminating $66,418 added by the Legislature for non-critical administrative positions identified by the department. I am further reducing $500,000 added by the Legislature for classroom training of county employees I do not believe that classroom training is the most effective use of funds. I believe that the internship method which I proposed at a level of $841,000, and which the Legislature appropriated at $341,000, is a more effective way to provide county staff with the necessary training. I am also deleting Provision 58, which would have specified the precedures for the department to follow in contracting out for the classroom training These actions are consistent with my action on Item 4260-001-014.

"58. The sum of $500,000 is appropriated to the Department of Health Services to fund a contract for purposes of training local health department personnel in the management and control of hazardous waste The contractor shall conduct training sessions in locations throughout the state The training sessions shall include, but not be limited to, the following.

(a) Statutes and regulations dealing with hazardous waste emphasizing recent changes in federal and state statutes and regulations.
(b) Inspection of hazardous waste storage facilities. Training to include procedures for working with law enforcement agencies and collection and presentation of evidence in legal proceedings.
(c) Personnel protection and safety.
(d) Manifest requirements for hazardous waste generators, transporters and storers
(e) Department of Transportation Title 49 requirements
(f) Emergency response to hazardous waste spills.
(g) Hazardous waste treatment technology.
(h) Remedial action, site cleanup and mitigation

The contractor shall have demonstrated abilities in the following areas

(a) Curriculum development and provision of training in the public health aspects of hazardous waste management.
(b) Development of needs assessments and program evaluation instruments as such instruments relate to local public health agencies.
(c) Experience in provision of training to local public health agency personnel.
(d) Capabilities to recruit expert consultants in the field of hazardous waste management including individuals with expertise in the delivery of local programs.
(e) Detailed knowledge of the delivery of local public health services
(f) Detailed knowledge of local hazardous waste management programs "

I am reducing this amount payable item from Item 4260-001-203 by $59,274 to recognize program efficiencies identified by the department This action is consistent with my action on Item 4260-001-203.

Finally, for many years we have been addressing the problems resulting from the dumping of toxic wastes at the Stringfellow disposal site in Riverside County This is recognized as one of the top priority toxic waste problems in the United States and it will be many years before the combined efforts of the state and federal governments will result in fully correcting this problem

In the meantime it is incumbent upon us to do all we can to protect the currently clean groundwater in the area from exposure to the potential of spreading contaminants in this underground source Therefore, I am reserving and will be requesting the Legislature to appropriate $25,000,000 (approximately $15,000,000 for capital costs from the Special Account for Capital Outlay and $10,000,000 for ongoing

operating costs from the General Fund) for the expansion of the current extraction, treatment and disposal of the contaminated portion of the groundwater, to expand our efforts to minimize the generation of newly contaminated groundwater, and where necessary assist in the provision of alternate sources of drinking water supply to those people dependent upon this groundwater.

Item 4260-001-014—For support of Department of Health Services I reduce this item from $17,180,903 to $16,364,485.

I am reducing this item by $250,000 which was added by the Legislature for the Abandoned Hazardous Waste Site Assessment Program I am further reducing this item by $500,000 added by the Legislature for classroom training of county employees I am also eliminating $66,418 added by the Legislature for non-critical administrative positions identified by the department These actions are consistent with my action on Item 4260-001-001.

Item 4260-001-203—For support of Department of Health Services. I reduce this item from $17,024,195 to $16,964,921.

I am reducing this item by $59,274 to recognize program efficiencies identified by the department This is consistent with my action on Item 4260-001-001.

Item 4260-001-890—For support of Department of Health Services I reduce this item from $86,818,034 to $86,401,147.

I am eliminating the $34,000 added by the Legislature to restore a position in the California Medical Assistance Commission which is partially funded by the Medi-Cal Program through this item. I am reducing this item to correspond to Items 4260-001-001 and 4270-001-001

I am reducing this item by $205,678 to eliminate funding for noncritical administrative positions identified by the department This conforms to my action on Item 4260-001-001.

I am also reducing this item by $12,209 to recognize program efficiencies identified by the department This also conforms to my action on Item 4260-001-001

Finally, I am reducing this item by $165,000 as a technical correction to conform to Item 4260-001-001, Schedule (k).

Item 4260-101-001—For local assistance, Department of Health Services I reduce this item from $2,177,287 000 to $2,160,457,000 by reducing

(a) 50 10—Eligibility (County Administration) from $127,332,000 to $121,532,000,

(b) 50.11—Benefits (Medical Care and Services) from $4,351,565,000 to $4,332,435,000, and

(c) Amount Payable from the Federal Trust Fund (Item 4260-101-890) from −$2,307,166,000 to −$2,299,066,000, deleting Provisions 12, 13 and 22, and revising Provisions 24

I am deleting Provision 12

"12 For the purpose of determining rates paid during 1985–86 to prepaid health plans (PHP), the Department of Health Services shall use the method used in calculating 1984–85 PHP rates Subject to the availability of full federal financial participation, rates for PHPs with Medi-Cal contracts in effect as of June 30, 1985, shall be no lower than the lesser of rates paid during 1984–85 or PHP costs as projected for the 1985–86 rate period (including the costs of administration) as these costs have been customarily calculated by the department

In light of recent information indicating the Prepaid Health Plans may be more costly than the Medi-Cal fee-for-service system, the Speaker of the Assembly, the Chairman of the Senate Rules Committee, and the Governor shall each appoint two members to an advisory group which shall oversee a study to be conducted by the Department of Health Services to determine the relative cost efficiencies of Prepaid Health Plans and the fee-for-service system in delivering Medi-Cal services and the causes of such efficiencies The study shall be completed and submitted to the Legislature by April 1, 1986.

The Department of Health Services shall submit a report to the Legislature by April 1, 1986, comparing services under Medi-Cal in the fee-for-service (FFS) and prepaid health plan (PHP) systems and the way in which the use of services has changed in the past six fiscal years The report shall at least the

following:

(a) Comparisons of various services' utilization rates over time in the two systems controlling for appropriate factors (such as age or sex).

(b) Comparisons of changes in various services' utilization rates over time in the two systems controlling for appropriate factors.

(c) Changes in PHP enrollment and the factors contributing to those changes.

(d) Changes in the conditions being treated under the FFS and PHP systems "

I believe the prepaid health plan rate-setting methodology should be determined annually on an actuarily sound basis. This language guarantees existing prepaid health plans rates for Fiscal Year 1985–86 that are no lower than the rates paid during Fiscal Year 1984–85 or prepaid health plan costs as projected for the 1985–86 rate period By doing so, this language compromises the Administration's rate development process and may result in prepaid health plan rates that exceed 100 percent of Medi-Cal fee-for-service costs If this language were to take affect, it would constitute an appropriation because it would provide prepaid health plans more funds than current law would provide. In addition, guaranteeing prepaid health plan rates eliminates the "at-risk" concept which is a fundamental principle in a capitated health delivery system.

I am eliminating the $5,800,000 legislative augmentation which would allow counties to be retroactively exempt from fiscal sanctions, under certain circumstances, if their denial rate for Medi-Cal applications exceeds the rate established in Chapter 1594, Statutes of 1982 (SB 2012) I recognize the need to update the base year for excess denial rates We will be working with the Legislature to craft a bill which would update the base year to 1983–84 for Medi-Cal applications processed in Fiscal Year 1984–85 forward. This approach will appropriately address this issue by funding excess denials prospectively Also, I am deleting the language relative to the funds appropriated as contained in Provision 13 in this item

"13. Due to Medi-Cal eligibility changes caused by legislative mandate, the Legislature has determined that these eligibility changes have caused a significant increase in the number of nonapproved Medi-Cal applications. The Legislature therefore makes a finding of special circumstances for all counties whose nonapproval ratios have increased beyond the base year level due to these circumstance and, notwithstanding any other provision of law, provides in this item, (a) 50.10-Eligibility (County Administration), $5 8 million for Medi-Cal eligibility determination costs in the 1982–83 fiscal year and the 1983–84 fiscal year which have not been reimbursed to counties because of the base year limitation. In order to obtain these reimbursements, counties shall apply for these funds and the State Department of Health Services shall certify there is sufficient evidence that counties are not including eligibility determination costs for the medically indigent services (MIA) program in their Medi-Cal administrative costs

The Department of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee of each house, 30 days prior to expenditure of the funds on its finding of the existence of special circumstances and the amount to be withheld from each county. Any funds withheld shall revert to the General Fund The State Department of Health Services shall report to the chairperson of the fiscal committee of each house and to the Chairperson of the Joint Legislative Budget Committee by March 15, 1986, regarding the feasibility of continuing the excess denial rate withhold policy established by Chapter 1594, Statutes of 1982 "

I am eliminating the $2,930,000 legislative augmentation to continue the Medi-Cal maintenance need level of $742 which is $142 higher than the $600 level permitted under federal ruling Chapter 323, Statutes of 1983 (AB 223-Trailer Bill) established a maintenance need for adult couples which is higher than the normal two person maintenance need level Existing law also contains provisions that allow for this higher level if federal financial participation is provided under Title XIX of the Federal Social Security Act. The Federal Department of Health and Human Services has ruled that the maintenance need levels for two adults is not permissible The $2,930,000 legislative augmentation sets an undesirable precedent by requiring the State General

Fund to pay for higher maintenance need levels than those for which the federal government will provide 50 percent funding. This becomes more important as the federal government attempts to limit the growth of health care costs. However, I am instructing the Department of Health Services to work with the Legislature to continue to explore alternatives regarding this issue.

I am also deleting Provision 22 relative to the funds appropriated for this purpose.

"22. Notwithstanding subdivision (a) of Section 14005 12 and Section 11003 of the Welfare and Institutions Code, it is the intent of the Legislature that maintenance need levels for a family of two adults be set at levels prescribed by subdivision (c) of Section 14005.12, even if Federal financial participation is only available for those families at a lower maintenance need level. However, if the U.S. Department of Health and Human Services issues a final ruling that would result in loss of federal financial participation for more than the added cost of a higher maintenance need level for two-adult families, then the maintenance need level for these families shall be set at the maximum allowed under federal law."

I am reducing by $7,500,000 the $10,000,000 legislative augmentation to be used by the California Medical Assistance Commission in negotiating contracts with hospitals serving a disproportionate share of Medi-Cal or other low-income patients. While I recognize that hospitals serving a disproportionate number of low-income patients do not have the same flexibility in recovering costs as do other hospitals, I do not believe in the concept of addressing such deficiencies through an automatic increase in Medi-Cal rates. However, I am leaving $2,500,000 in the budget to ensure that disproportionate provider hospitals are fully compensated for their costs of providing care to Medi-Cal beneficiaries

I am also revising the following language in Provision 24, relative to this augmentation consistent with my action·

"24 In allocating the ~~$10~~ *$2.5* million appropriated in this item and ~~$10~~ *$2.5* million in Item 4260-101-890 for disproportionate providers, the California Medical Assistance Commission shall take into consideration the $15 million augmentation for operating subsidies to the University of California teaching hospitals in Item 6440-001-001 "

I am eliminating the $600,000 legislative augmentation to include all FDA approved nonsteroidal anti-inflamatory drugs in the Medi-Cal Formulary which were approved for inclusion or addition by the Medical Therapeutic and Drug Advisory Committee at their December 7, 1984 meeting. I do not believe there will be any additional costs once these drugs are included in the Medi-Cal Drug Formulary. However, I am retaining the control language added by the Legislature, Provision 20, which requires that the drugs be added within 60 days of the effective date of this bill While I do not believe we should circumvent the current administrative process for adding drugs to the Formulary, I recognize this process is a lengthy one. The excessive time it has taken, and is still projected to take to add these drugs, would prolong the time the beneficial uses of these drugs would be denied to Medi-Cal patients.

I am also directing the Department of Health Services to take the necessary steps, including working with the Legislature, to simplify the statutory process to develop a more expeditious process for adding and deleting drugs to its formulary.

Item 4260-101-890—For local assistance, Department of Health Services I reduce this item from $2,307,166,000 to $2,299,066,000.

I am reducing by $7,500,000 the $10,000,000 legislative augmentation to be used by the California Medical Assistance Commission in negotiating Medi-Cal contracts with hospitals serving a disproportionate number of low income patients. This conforms with my action in Item 4260-101-001

I am eliminating the $600,000 legislative augmentation to include all FDA approved nonsteroidal anti-inflamatory drugs in the Medi-Cal Formulary which were approved for inclusion or addition by the Medical Therapeutic and Drug Advisory Committee at their December 7, 1984 meeting. This conforms with my action in Item 4260-101-001.

Item 4260-106-001—For cost-of-living increases, Department of Health Services. I reduce this item from $80,458,001 to $69,863,001 by reducing:

(b) 50.11—Benefits (Medical care and services) from $159,911,002 to $138,717,002,

and

(c) Amount Payable from Federal Trust Fund from —$81,587,001 to —$70,988,001.

and revising Provision 2.

I am reducing the $800,000 legislative augmentation by $372,000 to provide rate increases for Home Health Agencies under the Medi-Cal Program. The reduced level will permit a 28 percent increase over existing rates and would reflect the median service costs based on audited 1983 cost reports. This is consistent with the recommendations of the Department of Health Services I believe this 28 percent increase will eliminate much of the inequity and allow the Department time to re-evaluate rates for any necessary adjustments.

I am also revising Provision 2 as follows:

"Except as provided in Provision 25 of Item 4260-101-001, ~~$19,411,001~~ *$19,039,001* from the General Fund in this item, together with ~~$19,393,001~~ *$19,019,001* in federal funds appropriated in Item 4260-106-890, is intended for purposes of permitting the restoration of rate decreases effected by Sections 77, 78 and 79 of Chapter 1594, Statutes of 1982, except for those portions restored pursuant to Section 66 of Chapter 268, Statutes of 1984."

I am reducing this item by $10,223,000 to eliminate a 4 percent discretionary cost-of-living adjustment for the following Medi-Cal providers. Physicians, chiropractors, psychologists, podiatrists, hospital outpatient services, clinical laboratories, hearing aid dispensing, surgical clinics, acupuncturists, portable x-rays, outpatient clinics (pathology) and dentists. While these providers received a 10 percent (clinical laboratories 25 percent) reduction pursuant to Chapter 328, Statutes of 1982, rates have been restored to their pre-1982 levels and beyond through increases in 1984–85 and the final 1985–86 budget. The increase remaining in this budget for these providers is $18.6 million I believe the existing rates are adequate in view of the low inflation rate in recent years and the continued availability of all medically necessary services.

Item 4260-106-890—For cost-of-living increases, Department of Health Services I reduce this item from $80,787,001 to $70,988,001.

I am reducing the $800,000 legislative augmentation by $374,000 to provide rate increases for Home Health Agencies under the Medi-Cal Program. This item provides payables to its main Item 4260-106-001 and conforms to my action in that item

I am reducing this item by $10,225,000 to eliminate a 4 percent discretionary cost-of-living adjustment for certain Medi-Cal providers. This action is consistent with action in Item 4260-106-001.

I am adjusting the net reduction in this item by $800,000 to compensate for a technical error in the Budget Act

Item 4260-111-001—For local assistance, Department of Health Services I reduce this item from $1,066,641,334 to $1,051,472,334 by reducing·

(b) 11—Health Protection from $6,827,000 to $5,327,000,

(c) 20—Community Health Services from $109,136,334 to $103,635,334,

(d) 25—County Health Services from $942,473,000 to $934,365,000,

(e) 40—Rural Health Services from $8,205,000 to $8,145,000, and

delete Provisions 3(b) and 7.

I am reducing this item by $60,000 added by the Legislature to require the department to develop a proposal for the Farmworker Health Insurance Program to be considered during the 1986–87 budget process. I proposed $2,052,000 for the Farmworker Health Insurance Program based on a lengthy proposal prepared by the "Center For Strategic Health Planning," and, therefore, I do not believe an appropriation of $60,000 in contract funds to develop another proposal for this program is what is needed.

I am eliminating a legislative augmentation of $1,500,000 which was added for Acquired Immune Deficiency Syndrome (AIDS) for medically indigent adults It is not clear how these funds could be used in the Medically Indigent Program This Spring I included AIDS as a presumptive eligible disease in the Medi-Cal program. As such, once an individual is diagnosed as an AIDS Victim, the costs become Medi-Cal eligible Further, I know of no means to ensure that this augmentation could be used for medically indigent adults with AIDS.

I am also deleting Provision 3(b) to conform to this action.

"3. Program 25-County Health Services·

(a) The reimbursement rate for any procedure or service shall not be increased to exceed the Medicare rate for a comparable procedure or service, nor shall the reimbursement rate for any procedure or service which is currently above the Medicare rate be increased above its current level

~~(b) The $1,5 million for AIDS treatment through county medically indigent services programs shall be distributed to counties on the basis of need through a request for proposals process.~~ "

I am reducing this item by $1,500,000 for AIDS related community support services because providing funds for hospice, home health and attendant care for AIDS patients exclusive of other terminal illnesses is inappropriate If this approach is effective and cost beneficial then it should be considered in all areas. However, the Department of health Services prepared a report to the Legislature in 1980 on the cost effectiveness and need of these services under Medi-Cal The study indicated that there was not conclusive evidence on the effectiveness and efficiency of this type of care to include it as a part of the regular Medi-Cal benefit program.

I am eliminating $1,000 which would be required to perform the study for the Genetically Handicapped Persons Program. If the Legislature wishes to consider changing from the current diagnosis-based program to a generic program based on standards and criteria it should do so in separate legislation rather than the Budget Bill

I am also deleting Provision 7 to conform to this action.

"7 By January 1, 1987, the department shall develop standards and priorities for determining whether a genetically handicapping condition should be eligible for services under the Genetically Handicapped Persons Program pursuant to Sections 341 and 341.5 of the Health and Safety Code The department shall submit a report to the policy committees, the fiscal committees, and the Joint Legislative Budget Committee by February 1, 1987, which (1) contains the proposed standards and priorities; (2) determines whether including Von Hippel-Lindau's Syndrome as a genetically handicapping condition would be consistent with the proposed standards and priorities; and (3) estimates the cost of including Von Hippel-Lindau's Syndrome under the Genetically Handicapped Persons Program."

I am reducing the legislative augmentation of $9,500,000 for family planning by $5,500,000 This will leave an augmentation of $4,000,000 which when combined with the COLA I proposed will give this program a 17 1 percent increase in 1985–86.

I am eliminating a legislative augmentation of $6,608,000 for the "AB 8 Program" which provides support for county hospitals and facilities as well as other local health agencies Changes in funding for this program are made pursuant to a statutory formula based on changes in population and a specified economic index This augmentation would provide a discretionary increase of 1.7 percent in addition to the statutory increase of 3 63 percent. If the Legislature believes that the statutory provisions for changing the funding of this program are inappropriate, then legislation should be introduced to address the Legislature's concerns

Item 4260-492—Reappropriation, Department of Health Services I eliminate this item.

I am eliminating a legislative augmentation of one position which was added to monitor local health capital projects. This work can continue to be accomplished with existing staff We will continue to monitor this program to determine if additional personnel are necessary.

Item 4270-001-001—For support, the California Medical Assistance Commission I reduce this item from $954,000 to $921,000 by reducing:

(a) 100000—Personal Services from $1,248,000 to $1,192,000,

(b) 300000—Operating Expenses and Equipment from $519,000 to $508,000, and

(c) Reimbursements from −$813,000 to −$779,000.

I am eliminating the $33,000 and 1 personnel year added by the Legislature, including $34,000 in additional reimbursements, to continue the 1984–85 negotiator staff level This position is one of 8 that negotiate contracts with hospitals serving

Medi-Cal beneficiaries. Past workload and vacancy experience do not indicate a need for this position. This action reduces a corresponding $34,000 in Item 4260-001-890 and the amount payable from federal funds through Item 4260-001-001.

Item 4270-490—Reappropriation, California Medical Assistance Commission I eliminate this item.

I am eliminating this item, added by the Legislature, which reappropriates the unexpended balance of the appropriation provided by Chapter 328, Statutes of 1982 for the Governor's Office of Special Health Care Negotiations. The Legislature reappropriated this money to the California Medical Assistance Commission Funds would be used for a pilot capitation program providing educational and technical assistance to disproportionate provider physicians. Such a program is not presently a function of the California Medical Assistance Commission and I believe adding this type of activity would detract from the Commission's effectiveness in its primary mission.

Item 4300-101-001—For local assistance, Department of Developmental Services. I reduce this item from $333,132,000 to $317,641,000 by reducing·

(b) Purchase of services from $227,664,000 to $212,173,000, and

(b) (1) Out-of-Home Care from $87,678,000 to $72,187,000.

I am reducing the $18 million legislative augmentation for Residential Care Facility rate increases by $15,491,000. This action maintains a 4 percent discretionary cost-of-living increase of $6 7 million, the passthrough of a 1 6 percent SSI/SSP increase of $2 8 million, and provides a 1.5 percent augmentation of $2.5 million for a 7.1 percent total increase of $12 million. This increase is equal to one-third of the rate adjustment identified in the rate study which the department performs every three years

I am retaining the budget act language adopted by the Legislature which directs the department to implement a pilot study of their Residential Rate Proposal The proposal restructures the existing rate reimbursement system, eliminates duplicate funding, and provides for a more equitable and client-related rate setting mechanism I am deferring approval of the full amount of the rate increase identified in the 1985 study until the required report on the pilot projects is completed The study, which is due April 1, 1986, will provide the programmatic and fiscal data needed to determine the appropriate level of a rate adjustment. The findings will be available for consideration in the 1986 May Revision.

Item 4440-001-001—For support of Department of Mental Health I reduce this item from $19,206,000 to $19,106,000 by reducing.

(c) 35.01—Departmental Administration from $17,584,000 to $17,484,000, and revising Provision 2.

I am reducing this item by $100,000 to reflect the elimination of an augmentation for the development of self-help groups in communities. These are needs which should appropriately be funded within existing $489 million local Mental Health funds which have been augmented by $40 million in the Budget.

I am retaining a $400,000 augmentation to develop a youth suicide prevention program in the Department of Mental Health This goes along with legislation I signed last year to establish a pilot project for development of suicide prevention programs in schools and communities I am revising Provision 2 to conform to this action

"2. Of the amount appropriated in category (c), ~~$500,000~~ *$400,000* shall be expended ~~as follows: $100,000 for contractual services to promote the development of self/help groups and $100,000~~ to support the costs of developing a youth suicide prevention program."

Item 4440-016-001—For support of Department of Mental Health I am deleting Provision 2 of this item.

"2. The department shall spend up to $500,00 to support a pilot project in Los Angeles County designed to evaluate the effectiveness of providing intensive after-care and supervision services to up to 100 state prison mentally disordered parolees. The Departments of Mental Health and Corrections shall develop a research protocol which provides for random selection of the parolees and implements the research projects no later than January 1, 1986"

This conforms to my veto of the pilot project for mentally disordered parolees in

Item 5240-001-001, for support of the Department of Corrections.

Item 4440-101-001—For local assistance, Department of Mental Health. I reduce this item from $494,556,000 to $460,056,000 by reducing

(b) Community Service—Other from $535,783,000 to $501,283,000, and deleting Provisions 11, 13 and 17 and revising Provision 14

I am reducing this item by $34,500,000 to reflect the following actions: Elimination of an augmentation of $5,000,000 that was provided to fund county proposals for alternatives to state hospital usage. I had included this amount in my proposed budget in addition to $5,045,000 in state hospital savings to provide incentive for counties to reduce 400 state hospital beds Because the bed reductions have been restored, the $5 million is no longer required.

Elimination of an augmentation of $500,000 for providing training to county mental health programs in peer counseling for senior citizens. These services should be funded by counties at their option within the $40 million augmentation provided in the budget

Elimination of an augmentation of $1,000,000 that was provided to fund mental health services for victims of Acquired Immune Deficiency Syndrome. If these services are viewed as a priority by county mental health services, they should also be funded by counties at their option within the $40 million augmentation provided in the budget

Reduce by $28,000,000 the $48,000,000 legislative augmentation that was provided to fund mental health needs of homeless, seriously emotionally distrubed children and their families and equity funding needs of counties This augmentation was to implement provisions also included in AB 2541 which is still being considered by the Legislature. I believe this new funding should be included and considered in conjunction with the specific functions of that bill However, the needs of chronically mentally ill homeless adults presents such an immediate problem that I am retaining the $20,000,000 included for that purpose so we can begin assisting these people as soon as possible

I am deleting Provisions 13 and 17.

"13 $1,000,000 of the funds appropriated by this item shall be available for Acquired Immune Deficiency Syndrome (AIDS) mental health services as follows.

(a) The department shall spend $1,000,000 on programs addressing the mental health needs associated with AIDS,

(b) The funds shall be allocated as follows $500,000 to San Francisco County, $335,000 to Los Angeles County, and $165,000 for other counties;

(c) The director is authorized to reallocate funds among counties for treatment associated with AIDS if a county cannot efficiently and effectively spend the funds initially allocated for AIDS treatment.

(e) The director is authorized to allocate the $165,000 for other counties based on his assessment of needs, and

(f) The department shall include language in the request-for-proposal which authorizes grantees to accept donations from those receiving services."

"17. $500,000 of the funds appropriated by this item shall be used by the department to contract with a nonprofit organization with expertise in peer counseling to (1) provide training to county mental health programs on the design and implementation of peer counseling programs, and (2) provide technical assistance to counties as they implement peer counseling programs. The purpose of the training is to train county staff to train senior volunteer counselors who would then counsel senior citizens with mental health problems."

I am deleting Provision 11 of this item which puts greater restrictions on Los Angeles County, relative to the distribution of new Local Mental Health funds, than are required of any other county I do not believe that one county should be treated differently than all others

"11 That portion of the $40,000,000 in new funds appropriated by this item for mental health programs in counties with a population of 3 million or above shall be allocated to these counties only in accordance with all of the following provisions.

(a) The Departments of Mental Health and Finance shall determine that these funds shall be utilized in accordance with the index of relative need formulas in use in the county during the previous program year before county plans are approved.

(b) The funds shall be utilized to develop, insofar as possible, a balanced service system in each portion of the county or in each mental health region of that county if it is so divided

(c) The determination of regional equity and balance shall be made on the basis of fullyear costs for each program funded by the funds in the county plan.

(d) The Department of Mental Health shall report to the Legislature by March 1, 1986, as to the actual use of these funds in affected counties and as to revisions in the base budgets of these counties."

I am making the following revisions to Provision 14 in order to conform with my actions on this item:

"14. ~~$18,000,000~~ *$20,000,000* of the funds appropriated by this item shall be identified as a Targeted Supplemental Fund directed towards rebuilding the state's commitment to provide specific funding for mental health treatment and support services in the following manner

(a) $20,000,000 for chronically mentally disabled adults who are homeless or at risk of becoming homeless These services shall include basic living support services as well as alternatives to inappropriate placement in the criminal justice system

~~(b) $18,000,000 for seriously emotionally disturbed children and their families. These services should include treatment for juvenile sex offenders and juvenile victims of sex offenses. The development of locally coordinated systems among the public agencies servicing seriously emotionally distrubed children and their families shall be encouraged whenever possible~~

~~(c) $10,000,000 for increasing the state's Short/Doyle allocations to those counties based on the "poverty/population model" currently used by the department to determine equity allocations~~ "

Item 5100-001-185—For support of Employment Development Department. I reduce this item from $21,657,785 to $15,747,000

I am reducing this item by $114,091 to eliminate a legislative augmentation that would have added 4.2 positions for workload on the Occupational Employment Statistics survey.

I am also reducing this item by $2,023,028 to eliminate a legislative augmentation that would have added 67 4 positions for employment services workload.

I am also reducing this item by $3,773,666 to eliminate a legislative augmentation that would have added 93 1 positions in the job services program

In total, I am reducing this item by $5,910,785 payable from this fund to Item 5100-001-870

Item 5100-001-870—For support of Employment Development Department I reduce this item from $295,594,213 to $292,634,610 by reducing

(a) 10—Employment and Employment Related Services from $166,708,201 to $152,332,813,

(c) 30 01—General Administration from $32,468,000 to $31,468,000,

(f) Reimbursements from −$42,578,341 to −$36,073,341, and

(i) Amount payable from the Employment Development Contingent Fund from −$21,657,785 to −$15,747,000.

I am reducing this item by $114,091 to eliminate a legislative augmentation that would have added 4 2 personnel years for workload on the Occupational Employment Statistics Survey. The remaining 6 personnel years will be adequate to maintain the usefulness of the survey This action reduces the amount payable to this item from Item 5100-001-185

I am also reducing this item by $6,505,000 in reimbursements to eliminate a legislative augmentation that would have added 52 personnel years for the provision of contractual services to local service delivery areas (SDA's) These services are now

performed by the SDA's, by community-based operators or by local educational agencies It is consistent with the philosophy of the Job Training Partnership Act that these services be provided at the local level.

I am also reducing this item by $2,023,028 to eliminate a legislative augmentation that would have added 67.4 personnel years for employment services workload. This 1.3 percent augmentation to a $151 million, 2,860 personnel year activity is not necessary as the same level of services will be provided due to efficiencies achieved from the automation of the Job Service Order Sharing System. $10.9 million is being invested to accomplish this automation. This action reduces the amount payable to this item from Item 5100-001-185.

I am also reducing this item by $3,773,666 to eliminate a legislative augmentation that would have added 93.1 personnel years to the Wagner-Peyser Job Services Program (budget of 1,440 personnel years and $66 million) in such areas as Olympics-Related Employment and the High School Senior Model Program. The Olympics program has terminated and the High School program is incorporated within the new Model Employment Programs for Youth. This augmentation is not necessary as the appropriate level of services will be provided by community-based operators, service delivery areas or community-based organizations. It is consistent with federal and state policy that services be provided at the local level. This action reduces the amount payable to this item from Item 5100-001-185.

I am also reducing this item by $1,959,603 to eliminate a legislative augmentation that would have added 59 1 personnel years for workload that no longer exists. Automation of various functions of the Unemployment Insurance Program has resulted in efficiencies which reduced the number of personnel years required to operate this $1 9 billion program from 4,357 to 4,298.

Finally, I am reducing this item by $1,000,000 to eliminate a legislative augmentation that would have added 35 administrative personnel years related to other legislative staff augmentations. The budgeted level of 722 administrative personnel years is sufficient to address projected workload There is no basis for approving 35 additional personnel years.

Item 5100-011-870—For support of Employment Development Department. I eliminate this item.

I am deleting this $865,000 item, and the related language, for a pilot project of five-day workshops in the WIN-Demo program. I believe that the original purposes for which I recommended these funds be spent (an In-Home Care Provider project, an Older Workers project, a Veterans Employment program, and the Job Track program for unemployed youth) will return greater benefits than the pilot project Five-day workshops have been implemented and evaluated and there is no evidence that their higher costs result in a significantly higher job placement rate than the current three-day workshops.

Item 5100-011-890—For support of Employment Development Department, for transfer to the Unemployment Administration Fund. I reduce this item from $296,459,213 to $292,634,610.

I am reducing this item by $3,824,603 to reflect the reduced transfer need because of veto reductions to Item 5100-001-870 (−$2,959,603) and Item 5100-011-870 (−$865,000) This is conforming action.

Item 5160-001-001—For support of Department of Rehabilitation I am deleting Provision 3

I am deleting Provision 3, which directs the department to provide the Independent Living Skills Center a 10 percent inflationary adjustment. This language circumvents the department's competitive bidding process for contracts, and inequitably provides one contractor an inflationary adjustment

"3 At least $23,300 of the funds appropriated in this item shall be awarded to the Living Skills Center for the Visually Handicapped in San Pablo, California in order to provide a 10 percent inflation adjustment to the center's 1984–85 contracted reimbursement rate with the Department of Rehabilitation."

I am also reducing the legislative augmentation of 79.2 positions by 42.2 administrative and support staff. This action retains 37 counselor positions to provide direct counseling services to rehabilitation clients I am not eliminating the funding

however for the 42.2 positions. Consistent with the Budget I proposed, I am directing the department to redirect the $1,059,000 related to the position reductions to their miscellaneous client services category to meet direct client service needs such as transportation, work clothing and tools, and specialized training needs.

Item 5160-101-001—For local assistance, Department of Rehabilitation. I reduce this item from $59,116,000 to $57,566,000 by reducing:

(b) 20—Habilitation Services from $50,874,000 to $50,274,000,

(c) 30—Support of Community Facilities from $5,483,000 to $4,533,000, and

deleting Provisions 1 and 4.

I am eliminating the $950,000 legislative augmentation for new Independent Living Centers (ILC). The department has a study underway to review the existing ILC encatchment areas and service needs and will propose changes such as service expansion, center consolidations, or the establishment of satellite centers. The study will be completed by December 1, 1985. It is premature to fund new centers before the department completes this study. I am deleting Provision 4 to conform with this action:

"4. Of the amount appropriated in category (c), $950,000 shall be used to establish new Independent Living Centers (ILC) in order to serve part of the 30 percent of the state's unserved disabled population. Each new center shall receive a $90,000 base allocation plus an additional amount based on the proportion of disabled population served The department shall accept requests for proposals and distribute the funds by October 15, 1985.

Organizations for independent living in the following areas shall be given priority for the funding: Santa Cruz, Nevada, Contra Costa, Stanislaus, San Luis Obispo, and Yolo Counties, and Pasadena/Altadena and Claremont. To the extent possible, new ILC's shall be established in accordance with the preliminary findings of the statewide plan to deliver independent living services

The $950,000 shall be used to support the development of ILC's by making grants to organizations which:

(a) Are incorporated as nonprofit public-benefit corporations prior to June 30, 1985;

(b) Require at least 51 percent of the members of the board of directors to be persons with disabilities, and

(c) Will serve persons with disabilities (regardless of the nature of disability) who,

(1) Reside outside the defined catchment areas of ILC's funded during 1984–85, or

(2) Reside in areas which are not effectively served by an existing center

Any organization satisfying the above criteria shall be eligible to apply for these funds despite failure to meet any other requirements set forth in Sections 19800 et seq. of the Welfare and Institutions Code, provided, however, that all organizations must, by June 30, 1986, meet all statutory and regulatory requirements to qualify for continuation funding in the 1986–87 fiscal year "

I am eliminating the $600,000 legislative augmentation for Supported Employment Projects The same program and the necessary funding is being proposed in AB 1667 I believe that this augmentation should continue to be considered in the legislation I am also deleting Provision 1 to conform with this section.

"1 Of the amount appropriated within schedule (b), $600,000 shall be used to fund up to 20 Habilitation Supported Employment Projects which lead to employment of persons with developmental disabilities, with ongoing support as needed in order for those persons to maintain employment The department shall report to the Legislature by April 1, 1986, on the progress and cost of these projects. If federal funding is received for this purpose, it shall be used in place of the General Fund dollars provided."

Item 5180-101-001—For local assistance, Department of Social Services. I reduce this item from $1,653,560,000 to $1,640,454,000 by reducing:

(a) 10.04 005—Aid to Families with Dependent Children from $3,366,982,000 to $3,350,663,000,

(e) Amount payable from the Federal Trust Fund (Item 5180-101-890) from −$1,759,873,000 to −$1,756,660,000,

and deleting Provisions 6 and 7.

I am reducing this item by $13,106,000 The DSS has developed a rate control system for Group Home Providers which will be effective July 1, 1985. This system is intended to bring rates for similar homes into a comparable rate group. Given the fact that group homes received an average rate increase of 8 percent in 1984–85 ($13.1 million) and the disparity that exists between comparable group homes, I believe it is premature to provide an additional augmentation until the mandated rate control system has been implemented and some comparability is established. However, I am retaining sufficient funds in this item to provide a 4 percent cost-of-living increase ($6.2 million) for Foster Care Group Home Providers to be allocated according to current law. I am also deleting Provision 6 because it would preclude the DSS from implementing the rate control system effective July 1, 1985, and requires the development of a prospective rate system before the current rate control system can be evaluated.

"6. If the amount appropriated by the Budget Act is less than the amount necessary to reimburse group homes for their actual allowable costs, all group homes shall receive a cost-of-living adjustment (COLA) that is equal to the percentage appropriated by the Budget Act. The department shall not adopt or promulgate regulations that in any way preclude a home from receiving the full COLA. If the amount appropriated by the Budget Act is sufficient to reimburse group homes for their actual allowable costs, the rates paid for foster children placed in group homes shall be the 1985–86 cost rate, defined as proposed by the department in Section 11.400 1(c) of the Administrative Standards for Public Social Services, AFDC-Foster Care Rates. Only if all group homes are reimbursed for their actual allowable costs can the department establish rates in 1985–86 as proposed in regulations submitted to the Office of Administrative Law.

It is the intent of the Legislature that, effective July 1, 1987, rates paid for foster children placed in group homes shall be made on a prospective basis. The department, with the cooperation of the counties and agencies which provide care for foster children in group homes, shall develop a prospective payment system in adequate time that it may be implemented by July 1, 1987."

In addition, I am deleting Provision 7 which requires that all Foster Care Family Home Providers be provided a full cost-of-living increase because it represents a substantive change in law. Welfare and Institutions Code Section 11461(c)(2) specifically requires the DSS to limit the cost-of-living increase to one-half that provided to any county whose foster family home rates exceeds the standard rate Furthermore, elimination of this language will continue the process of reducing the rate gap that exists in this program because some counties' rates are currently above the statewide standard rate.

"7 The Legislature finds and declares that all counties now meet or exceed the foster family rate schedule established pursuant to Section 11461 of the Welfare and Institutions Code. For the 1985–86 fiscal year, notwithstanding Section 11461 of the Welfare and Institutions Code, it is the intent of the Legislature that foster families in each county receive the full COLA provided in this budget Whatever rate adjustment is necessary to accomplish the above, and which is not provided in the COLA section of this budget, shall be provided in this item."

Item 5180-101-890—For local assistance, Department of Social Services I reduce this item from $1,759,873,000 to $1,756,660,000.

I am reducing this item by $3,213,000 to correspond with action taken in Item 5180-101-001 which will allow the mandated rate control system for Foster Care Group Homes Providers to be implemented and established prior to considering additional augmentations In addition, sufficient funds are retained in this item to provide a 4 percent cost-of-living increase for Foster Care Group Homes Providers

Item 5180-151-001—For local assistance, Department of Social Services I reduce this item from $285,180,000 to $274,812,000 by reducing:

(a) 20 30—Other County Social Services from $225,603,000 to $223,603,000,

(a) (2) 20.30.030—County Services Block Grant from $58,896,000 to $56,896,000,
(b) 20.35—Specialized Adult Services from $369,780,000 to $369,730,000,
(b) (1) 20.35.220—In Home Supportive Services from $364,303,000 to $364,253,000,
(d) 20.42—Adoptions from $24,378,000 to $20,319,000,
(f) 20.47—Child Abuse Prevention from $14,859,000 to $10,359,000,
(g) Amount Payable from the Federal Trust Fund (Item 5180-151-890) from −$431,577,000 to −$431,336,000, and
deleting Provisions 9, 10 and 11.

I am reducing this item by $2,000,000 for adult protective services in the Other County Social Services (OCSS) program. Currently, there are several bills that propose major reforms in the adult protective services area and there is insufficient data on which to base an augmentation to the counties at this time. I am also deleting Provision 11 to conform to this action.

"11 Of the funds appropriated in category (a) (2), the County Services Block Grant (CSBG), $2,000,000 shall be an augmentation for adult protective services It is the intent of the Legislature, in providing this augmentation, to address the underfunding of adult protective services and the losses in purchasing power in the Adult Protective Services Program since the 1981–82 fiscal year. No county shall expend less of its CSBG for adult protective services in the 1985–86 fiscal year, including county matching funds required under the provisions of Chapter 978 of the Statutes of 1982, than it did in the 1984–85 fiscal year This augmentation represents half-year funding to be allocated beginning January 1, 1986, and shall supplement, not supplant, those CSBG funds, including mandatory county matching funds, expended in the 1984–85 fiscal year.

Augmentation funds shall be utilized to develop and maintain a basic system in each county to ensure that reports of elder and dependent adult abuse can be reported to the county on a 24-hour basis and that the county shall arrange for services in situations of extreme emergency, which may include, but are not limited to, any of the following. law enforcement intervention, paramedic services, and emergency shelter services. In those adult protective service situations which are not of extreme emergency, the county may refer the reports taken after normal business hours to the appropriate services unit for action the following day.

In consultation with representatives of county government, the Department of Social Services shall determine those funds necessary from this augmentation for the development and maintenance of the 24-hour access capability in each county. These funds in excess of that amount shall be used to fund additional adult protective services in each county. Prior to the receipt of any adult protective services augmentation funds, each county shall prepare a plan for approval by the Department of Social Services which outlines how the county shall comply with the 24-hour access requirement and the services the county shall make available with the augmentation funds. In consultation with representatives of county government, the department shall: (1) by August 31, 1985, develop minimum guidelines for counties to follow when developing their county plans; (2) by December 31, 1985, develop an allocation formula for the augmentation funds, and, (3) no later than January 1, 1986, allocate these augmentation funds.

Each county shall utilize available adult protective services resources in the county prior to developing new county-operated resources when the private adult protective service resources are of at least equal quality and lesser, or equal, cost as compared with county-operated resources.

The Department of Social Services shall provide a status report to the Joint Legislative Budget Committee by March 1, 1986, on the implementation of these requirements "

I am also reducing this item by $50,000 for an In-Home Supportive Services pilot project proposing to train workers on providing services to recipients with severe disabilities who have major behavioral problems. This pilot would be administratively infeasible to implement because of the subjectivity in defining an agressive or belligerent recipient I am also deleting Provision 9 to conform with this action.

"9. Funds shall be appropriated from this item for an In-Home Supportive Services Pilot Project, as follows:

(a) The Legislature finds and declares that due to severe physical or mental disabilities, some recipients of In-Home Supportive Services are incapable of adequately supervising services providers, and others cause extreme difficulties in a service provider's efforts to interact with the client due to the client's aggressiveness or belligerence.

(b) Of the funds appropriated by this item, $50,000 is for an In-Home Supportive Services Pilot Project (Pilot Project) in Sacramento County for the training of service providers, and for mediating disputes with, not to exceed 50 clients whose severe physical or mental disabilities present problems either to the provider or the client, as described in subdivision (a). The pilot project provided for under this section shall be operated for a period of one year.

(c) Under the pilot project established pursuant to subdivision (b), the county shall choose up to 50 clients whose severe physical or mental impairment create difficulties in supervising service providers, or difficulties in interaction with a service provider. The county shall provide training to service providers who shall be providing services to these clients. The training shall be designed to address the problems which these client's disabilities create. The county shall also handle mediation of disputes arising between clients selected for this pilot project and their service providers.

(d) As an incentive for providing services to clients selected for this pilot project, service providers shall be provided with an incentive wage increase of $0.45 cents per hour in addition to the existing wage which would be paid to the provider, with the incentive payment limited to 260 hours for each client per month.

(e) The Department of Social Services shall submit a report to the chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committee of each house by March 1, 1986, describing the project and evaluating the effectiveness of training and incentive pay in reducing IHSS provider turnover as follows:

(1) The impact of training on the level of care for clients.

(2) The reduction in the provider turnover rate and in administrative costs for mediating client problems and securing frequent provider replacement

(3) The criteria to be developed for the selection of the clients and providers for training to ensure the appropriate use of project funds.

(4) The most cost-effective way to provide training to individual providers."

I am further reducing this item by $3,818,000 which I included in the budget to fully fund the Adoptions Program transfer to the counties The additional funding was provided to ensure that counties would have sufficient funds to increase the number of county adoptions workers Since the Legislature did not accept my proposed transfer, these funds are no longer needed. However, sufficient funds are retained in this item to provide a 4 percent cost-of-living adjustment for the adoption program. In addition, I am reducing this item by $4,500,000 in the Child Abuse Prevention Program because of insufficient data on current service needs Recent legislation, Chapter 1638, Statutes of 1984 (AB 2443) which appropriated $11 25 million for primary prevention program in schools and two training centers, and Chapter 1618, Statutes of 1984 (AB 1562) which appropriates $1 5 million each year for 3 years for in-home therapy services and self-care training, increased this program by more the 100 percent above the funding level of $10,000,000 established by Chapter 1398, Statutes of 1982 (AB 1733).

I am also deleting Provision 10 to conform with this action

"10 Of the funds appropriated in category (f), Child Abuse Prevention, expansion funds shall be apportioned to counties in a manner proportionate to their 19854-85 entitlements Expansion funds shall be used for direct services

provided by public or private nonprofit agencies from January 1, 1986, through June 30, 1986. In distributing the expansion funds, counties shall give priority to programs that address unmet needs for services to children at risk of abuse and for their families, including, but not limited to, children under the age of five, victims of sexual abuse or children at risk of sexual abuse, and teenage parents. In provision of services, emphasis shall be placed on development of mechanisms to respond to children who, in the estimation of social workers, are at risk of abuse, but who are unable to testify in court, or for other reasons are excluded from the SB 14 system. Programs which are no longer continued as a result of the rebidding process may submit claims to the Department of Social Services for ending activities such as reasonable final services to clients, evaluation, and payment of staff benefits. Claims may not exceed the programs' unused 1984–85 funds. Counties shall make an effort to coordinate funds available from SB 14, AB 1733, and the Children's Trust Fund, Child Abuse Prevention Training in the Schools, and the Victims Restitution Program.

The Department of Social Services shall report back to the Legislature as follows:

(a) An evaluation of currently funded programs by December 30, 1985.

(b) The status of new funding on a county-by-county basis by December 30, 1985.

(c) All activities mandated by AB 1733 and subsequent budget language by March 30, 1986."

Item 5180-151-890—For local assistance, Department of Social Services. I reduce this item from $431,577,000 to $431,336,000

I am reducing this item by $241,000 to correspond with action taken in Item 5180-151-001 as a result of the Adoption Program not being transferred to the counties

Item 5180-161-001—For local assistance, Department of Social Services. I reduce this item from $9,901,000 to $8,033,000 by reducing:

(a) 30—Community Care Licensing from $12,636,000 to $10,768,000.

I am reducing $568,000 for Family Day Care licensing caseload growth pending the completion of a workload standard study which will be used as the basis for funding caseload growth in both the local and state portions of the Community Care Licensing Program beyond the current level of $32 2 million

In addition, I am reducing $1,300,000 of the $2,300,000 proposed in this item for family home recruitment. I believe the remaining $1 million for family home recruitment, in conjunction with the $1 million provided for training of foster parents in Chapter 1597, Statutes of 1984 (SB 2003), will provide sufficient resources for counties to increase the number of available family homes by 20 percent. This increase should address any current shortages of family homes for infants and children with special needs

Item 5180-181-001—For local assistance, Department of Social Services I reduce this item from $260,226,000 to $227,379,000 by reducing:

(b) 20—Social Services from $53,413,000 to $22,599,000,

(d) 10.04.005—Aid to Families with Dependent Children from $199,549,000 to $196,577,000,

(g) Amount payable from the Federal Trust Fund (Item 5180-181-890) from −$124,426,000 to −$123,487,000, and

deleting Provision 3.

I am reducing this item by $20,300,000 for the Child Welfare Services Program prior year cost-of-living increases. Currently, the Budget Bill reflects a $25,600,000 increase for this issue rather than the correct amount ($20,300,000) adopted by the Legislature Therefore, I am also reducing this item by $5,300,000 to correct this technical error Since 1982–83, when Chapter 978, Statutes of 1982 (SB 14) was fully implemented, the Child Welfare Services Program has increased by approximately $76.7 million ($135 7 million to $212.4 million, which includes a proposed 1985–86 4.0 percent COLA). This amounts to a 57 percent increase The Department of Social Services has informed me that because of the relative newness of SB 14 they do not have sufficient historical statistical data for reliable program trend analysis The department's May Subvention Estimate indicated a 17 percent decrease in caseload in the Emergency Response

Program and a 3 percent decrease in caseload in the Family Maintenance Program which may indicate program stabilization. Therefore, it would be premature to augment this program in light of the limited data to analyze program trends and recent caseload changes.

I am also deleting Provision 3 of this item which reserves $200,000 to supplement Child Welfare Services to Indian Children Indian children are already under the protection and services of federal and state child welfare laws and the supplemental protections of the federal government Indian Child Welfare Act.

"3. Of the $20,300,000 dollars within Item 5180-181-001(b), for Child Welfare Services, $200,000 shall be reserved for eleven Indian Services Centers to provide Child Welfare Services to Indian children "

I am also reducing this item by $5,214,000 for the In-Home Supportive Services Program service providers for the increased cost-of-living adjustment (COLA) from 4.0 percent to 5.7 percent. This reduction maintains the 4.0 percent discretionary cost-of-living increase I proposed for this program ($12,266,000) and is more in line with the rate of inflation and the cost-of-living increase provided for most other discretionary programs Currently there is no data to suggest there is a lack of IHSS service providers in the employment market that would justify special treatment for IHSS service providers over other similar service providers.

Finally, I am reducing the COLA for foster care family home providers by $2,033,000 This reduction eliminates the difference between the discretionary COLA of 4 percent and the 5 7 percent ($1,435,000) It also recognizes the overstatement of COLA ($598,000) in the budget for foster care family home providers that exceed the standard rate However, it maintains the discretionary COLA of 4 percent for foster care family home providers.

Item 5180-181-890—For local assistance, Department of Social Services I reduce this item from $124,426,000 to $123,487,000

I am also reducing the foster care family home provider COLA in this item by $939,000 to conform to my action in Item 5180-181-001

Item 5240-001-001—For support of Department of Corrections I reduce this item from $827,568,000 to $827,068,000 by reducing

(b) 31—Community Correctional Program from $83,781,000 to $83,281,000, and deleting Provision 8.

I am reducing this item by $500,000 to eliminate the legislative augmentation for a pilot psychiatric treatment project. The 1985–86 budget for the Department of Corrections already includes a partial year funding increase of over $900,000, or about $3,600,000 annualized to fund an enhanced level of institutional-based psychiatric services. The department's budget also includes $4,000,000 to fund out-patient treatment services for parolees In addition, this Administration is sponsoring legislation which would carefully control the release of and provide expanded supervision and treatment for the state's parolees who suffer from psychiatric conditions Until the combined benefits of these treatment services have been properly evaluated, a further augmentation is premature

I am also deleting Provision 8 to conform with this action

"8. Of the amount appropriated in Schedule (b) $500,000 shall reimburse Item 4440-001-001 to support a pilot project in Los Angeles County designed to serve up to 100 state prison parolees in Department of Mental Health intensive aftercare and supervision services such as currently are provided to offenders returning to the community from state hospitals The project shall begin no later than January 1, 1986 The Departments of Corrections and Mental Health shall jointly conduct a study of the effectiveness of the project and report the findings to the Joint Legislative Budget Committee and legislative fiscal committees by December 1, 1986 "

Item 6100-001-001—For support of Department of Education I reduce this item from $32,463,000 to $31,920,000 by reducing:

(b) 20—Instructional Support from $25,002,000 to $24,602,000,

(c) 30—Special Programs from $16,042,000 to $15,997,000,

(d) 41—Executive Management and Special Services from $8,240,000 to $8,142,000, and revising Provision 8

I am reducing the $800,000 augmentation for the Golden State Examination Program to $400,000 to provide for the development of four subject area examinations These funds, in addition to the appropriation made by SB 813, will allow for the completion of six subject area examinations in the Golden State Examination Program during the 1985–86 fiscal year

I am eliminating the $45,000 which the Legislature added to further fund the administrative activities related to the implementation of Chapter 1603, Statutes of 1984, and Chapter 1604, Statutes of 1984. My budget includes the continuation of 1.5 positions and appropriate operating expenses to carry out the tasks associated with the enactment of this legislation. I do not believe that the operating expense augmentation is necessary for these tasks

I am reducing the $148,000 augmentation for the Teacher Recruitment Initiative by $98,000. The California Commission on the Teaching Profession is currently doing a study of the teaching profession that includes the element of recruitment The $50,000 remaining in this item for the Teacher Recruitment Initiative will allow initial steps to be taken towards a recruitment effort while waiting for completion of the California Commission on the Teaching Profession study before fully implementing a recruitment effort. Even with this reduction, the Department of Education's budget for Executive Management and Special Services will be $3,058,000 greater than its current year level.

Consistent with this action, I am reducing the $148,000 amount specified in Provision 8 by $98,000. This Provision also prescribes the means of expending funds for the Teacher Recruitment Initiative.

"8. Of the funds appropriated in schedule (d) of this item, ~~$148,000~~ *$50,000* shall be for the purpose of conducting a teacher recruitment campaign. The campaign shall be conducted by a contractor selected through a competitive bidding process, with at least two bids required for the awarding of the contract No elected public official shall appear in, or be the subject of, advertisements used in conducting this campaign "

Item 6100-011-001—For support of Department of Education, California State Library. I reduce this item from $9,437,000 to $8,659,000 by reducing

(a) 50—Library Services from $10,945,000 to $10,167,000

I am eliminating the $244,000 General Fund augmentation for support of additional microfilming activities at the Library I believe that the $321,000 remaining in this budget for microfilming services is sufficient to support the microfilming of the seriously endangered newspapers in accordance with the legislative priorities expressed in Provision 1 of this item.

I am eliminating the $534,000 added for automation of the Library card catalogs. I believe providing funds for these purposes is premature until such time as system tests and feasibility study reports are completed and reviewed.

Item 6100-025-001—For support of Federation of California Minority Radio Stations. I eliminate this item.

I am eliminating this item of $150,000 for support of six minority radio stations. In the 1984–85 fiscal year, I approved an augmentation of $125,000 for one-time assistance to enable the minority radio stations to pursue more permanent sources of funding for on-going operations. I do not believe the general taxpayer should be responsible for funding these kinds of programs on an ongoing basis

Item 6100-101-001—For local assistance, Department of Education I reduce this item from $6,725,098,000 to $6,701,735,000 by reducing

(a) 10 10.001.001—School apportionments, for district revenue limits from $6,475,028,000 to $6,463,559,000,

(b) 10.10 001.002—School apportionments, for necessary small schools from $15,541,000 to $15,491,000,

(c) 10.10 001.003—School apportionments, for small school district transportation aid from $19,403,000 to $19,126,000, and

(f) 10.10.011—School apportionments, for summer school programs from $60,996,000 to $60,972,000,

and by eliminating.

(i) For transfer to schedule (dd) of Item 9680-101-001, for funding STRS unused sick

leave credits $11,543,000.

I am also deleting Provisions 8 and 21.

I am reducing this item by $23,363,000 to eliminate $277,000 for increased funding for small school district transportation aid, $11,543,000 for funding an increase in base revenue limits, and $11,543,000 for the funding of State Teachers' Retirement System unused sick leave credits.

I am eliminating the increase for small district transportation because I believe that the cost-of-living increase budgeted for small school district transportation aid is sufficient to provide aid to small districts with substantial transportation costs and that the apportionments to districts should continue to be allocated on a funds available basis. Even with this reduction an additional $765,000 for this purpose will be available in 1985–86 through the cost-of-living adjustment applied to these allocations

I am eliminating the $11,543,000 legislative augmentation to increase districts' 1985–86 base entitlements. The amount remaining in this item after my reduction fully funds the base entitlements established by the 1984 Budget Act. Together with the statutory cost-of-living adjustment provided in Item 6100-226-001, the amount remaining in this item will fully fund 1985–86 district revenue limits.

I am eliminating $11,543,000 for transfer to the Local Mandate item, Item 9680-101-001, because I believe that it will imply that the costs of service credit awarded STRS retirants for unused sick leave pursuant to Chapter 89, Statutes of 1974, are reimbursable State mandated costs However, I recognize the need to permanently resolve the issue of support for STRS sick leave service credit. Therefore, I am retaining Provision 13 in Item 9680-101-001 which states the Legislature's intent to permanently resolve this issue through separate legislation. In addition, I am setting aside $18,000,000 to be used, if necessary, to fund the first year cost of the legislation.

To conform to this action, I am also deleting Provision 21 which provides for direct payment to the State Teachers' Retirement System for the purpose of funding the cost of increased service credit retirement benefits.

"21 The funds appropriated in schedule (i) of this item are for direct payment to the State Teachers' Retirement System for the purpose of funding the cost of increased service credit retirement benefits in lieu of the amount required pursuant to Section 22720 of the Education Code On July 1, 1985, the Controller shall transfer the amount appropriated in Schedule (i) of this item to Schedule (dd) of Item 9680-101-001 of this act "

I am deleting Provision 8, which would require the State to fund one-half of the cost of salary increases for San Francisco Unified School District for the 1980–81 and 1981–82 fiscal years. I am deleting this provision because it would result in a $1 8 million deficiency in this item and because providing such special treatment to San Francisco Unified is unfair to other districts. The situation that exists in San Francisco that prompted this language is one created by the local governance structure. A solution to the school district's problem should be negotiated at the local level

"8. In addition to other apportionsments, the Superintendent of Public Instruction shall also allocate to districts one-half of salary increases granted to classified employees of a school district in the fiscal years 1980–81 through 1981–82, inclusive, by the board of supervisors of a city and county "

Item 6100-102-001—For local assistance, Department of Education I reduce this item from $193,897,000 to $191,744,500.

I am reducing the ROC/P base amount by $2,152,500 to reflect a technical adjustment. When the Governor's Budget was prepared, it included funding to reflect the 1984–85 ROC/P deficiency which was estimated to be $5.6 million Because the average daily attendance reported by ROC/Ps was less than anticipated, the current estimate of the 1984–85 deficiency is $3.5 million.

Item 6100-106-001—For local assistance, Department of Education I reduce this item from $81,341,000 to $81,041,000.

I am eliminating the $300,000 legislative augmentation to increase county offices' 1985–86 base entitlements. The amount remaining in this item after my reduction fully funds the base entitlements established by the 1984 Budget Act Together with the statutory cost-of-living adjustment provided in Item 6100-226-001, the amount remaining in this item will fully fund 1985–86 county office revenue limits

Item 6100-121-001—For local assistance, Department of Education.

I am deleting Provision 3. This Provision would prohibit the adoption of changes in administrative regulations pertaining to the classification of bilingual students pending the outcome of the sunset review of the bilingual education programs.

"3. Pending the outcome of the sunset review of bilingual education programs pursuant to Section 62006 of the Education Code, there shall be no change in administrative regulations pursuant to Section 52164.6 of the Education Code as it was in effect on May 1, 1985."

Section 231 of Chapter 498, Statutes of 1983, requires the State Board of Education and the Superintendent of Public Instruction to review and make recommendations regarding the regulations governing the reclassification of limited English speaking pupils. The State Board of Education has adopted amendments to these regulations in accordance with its vested powers, and it is my belief that these amendments should be allowed to take affect in accordance with current statutes

Item 6100-161-001—For local assistance, Department of Education. I reduce this item from $780,198,000 to $778,698,000.

I am eliminating the $1,500,000 legislative augmentation to increase 1985–86 base entitlements for special education. The amount remaining in this item, after my reduction, fully funds the base entitlements established by the 1984 Budget Act. Together with the statutory cost-of-living adjustment provided in Item 6100-226-001, the amount remaining in this item will fully fund 1985–86 special education entitlements

Despite this reduction, the Budget Act contains more than $1.2 billion in state and federal funds for the special education program Within this total is $32.5 million of new state funding for program expansion, including $10 million for growth in the regular program; $5 million for expansion of the infant program, $3.5 million for incentives for the longer day and year for county offices; $3.5 million for vocational education for handicapped individuals, $5 5 million for increased numbers of instructional aides for severely handicapped pupils; and $5 million for the purchase of specialized equipment for pupils with low incidence disabilities These expansions and improvements of the special education program represent the first year of my three-year plan for improving the quality of special education programs in California.

Item 6100-183-178—For local assistance, Drug Abuse Prevention I eliminate this item

I am eliminating the $300,000 augmentation, and the related language, to establish pilot drug prevention projects. While I believe these programs are necessary, drug prevention programs are already provided for all K–12 pupils as required by current law. Additionally, during 1985–86, the budget provides $500,000 for School-Community Primary Prevention programs designed to prevent drug and alcohol abuse In addition, there is over $235 million in categorical K–12 education program funds, and over $10 billion in general apportionments that may be used by school districts for drug abuse prevention programs

I encourage schools and the community to develop drug abuse prevention programs utilizing existing resources available for such purposes

Item 6100-193-001—For local assistance, Regional Science Resource Centers. I eliminate this item

I am deleting the $225,000 augmentation for Regional Science Resource Centers, established by Chapter 1651, Statutes of 1984, to increase science education and training opportunities for K–12 students and teachers

I support the concept of such training The 1985–86 Budget provides over $10 billion in general purpose revenues, $71.6 million for staff development and teacher training and over $235 million for categorical programs that may be used for science education and teacher training in K–12 schools I would, therefore, encourage school districts to review the training techniques being used in such centers and to provide for the emulation of these techniques in science classrooms throughout our schools

Item 6100-201-001—For local assistance, Department of Education I reduce this item from $46,872,000 to $33,872,000 and revising Provision 2

I am reducing $13,000,000 of the $16,800,000 augmentation provided to increase the reimbursement rates for child nutrition meal subsidies

I have reviewed the funding for this program and find that $3,800,000, which I have retained, will ensure that nutritious meals are provided to the children in greatest need in accordance with current statutes.

Consistent with this action, I am revising Provision 2 as follows:

"2. Notwithstanding any other provisions of law, except as provided in this provision, funds appropriated by this item shall be available for allocation in accordance with provisions of Section 49536 of the Education Code, except that such allocation shall not be made on the basis of all meals served but shall be made on the basis of the number of meals that are served and which qualify as free or reduced priced meals in accordance with provisions of Sections 49501, 49550, and 49552 of the Education Code. Notwithstanding Section 49536 of the Education Code, of the amount appropriated in this item, ~~$16.8~~ *$3.8* million shall be used to increase the reimbursement to child nutrition entities under Section 49536 of the Education Code on a pro rata basis."

Item 6100-221-001—For local assistance, Department of Education, California State Library. I reduce this item from $20,250,000 to $18,300,000.

I am reducing the $5,000,000 augmentation for the Public Library Foundation by $1,950,000. I believe that the $18.3 million remaining, which is $6.3 million and 53 percent more than the current year level of funding, will provide a reasonable level of State assistance to local public libraries.

Item 6100-226-001—For local assistance, Department of Education. I reduce this item from $794,626,450 to $765,160,700 by reducing:

(a) (1) K-12 District Revenue Limits from $594,100,000 to $580,256,000,

(a) (2) Necessary Small Schools from $3,884,000 to $3,795,000,

(a) (5) Apprentice Programs from $154,897 to $152,000,

(a) (6) Regional Occupational Centers and Programs from $11,880,972 to $11,649,700,

(a) (7) K-12 County Offices of Education from $11,360,000 to $11,092,000,

(a) (10) Summer School Programs from $3,861,000 to $3,775,000,

(b) Demonstration Programs in Reading and Math from $252,120 to $247,000,

(e) Economic Impact Aid from $11,867,553 to $7,500,000,

(g) (1) Special Education-Exceptional Children from $84,293,000 to $82,336,000,

(g) (2) Special Education-Regional Services from $1,825,000 to $1,784,000,

(j) Miller-Unruh Reading Program from $1,149,666 to $1,124,000,

(k) Instructional Materials (K-8) from $3,941,000 to $3,854,000,

(*l*) Instructional Materials (9-12) from $1,260,307 to $1,233,000,

(s) School Improvement Program (for transfer to Item 6100-116-001) from $11,845,000 to $11,607,000,

(s) (1) School Improvement (K-6) from $10,747,000 to $10,509,000,

(u) Preschool Education from $2,157,854 to $1,364,000,

(v) (1) General Child Development Programs from $12,456,305 to $7,872,000,

(v) (2) Campus Children's Center from $371,470 to $236,000,

(v) (3) Parenting and Infant Development from $303,085 to $192,000,

(v) (4) Migrant Day Care from $398,308 to $252,000,

(v) (5) Special Allowances for Rent from $24,128 to $16,000,

(v) (6) Special Allowances for Handicapped from $43,256 to $27,000,

(v) (7) Alternative Payment Program from $1,209,342 to $765,000,

(v) (8) Resources and Referral from $429,145 to $272,000,

(v) (9) Campus Child Care and Tax Bailout from $242,410 to $153,000,

(v) (10) Protective Services from $60,675 to $39,000,

(x) Urban Impact Aid Unified School Districts from $4,589,957 to $2,902,000,

(x) (1) Urban Impact Aid—Unified School Districts from $4,006,914 to $2,533,000, and

(x) (2) Urban Impact Aid—Non-Unified School Districts from $583,043 to $369,000, and revising Provision 3.

I am reducing $29,465,750 from this item to: (1) reduce the legislative augmentation for programs receiving discretionary COLA's, from $19,235,450 to $6,429,000; (2) eliminate the legislative augmentation of $16,523,000 for programs receiving the statutory revenue limit COLA, and (3) reflect a technical adjustment of $136,300 to

the COLA for ROC/P's.

I am reducing the legislative augmentation for certain programs receiving a discretionary COLA from $19,235,450 to $6,429,000. The funds remaining in the budget after this reduction will provide a 6.19 percent COLA for programs with a substantial portion of costs tied to salaries and benefits of school employees and a 4 percent COLA for other discretionary programs

I am also eliminating legislative augmentations totaling $16,523,000 that relate to the 1985–86 cost-of-living adjustment for those programs receiving the statutory revenue limit COLA The appropriations remaining in this budget after my reduction fully fund the base entitlements established by the 1984 Budget Act and the 1985–86 statutory COLAs. To be consistent with this action, I am also revising in paragraph (b) of Provision 3 of Item 6100-226-001 which was added by the Legislature and would change the methodology used to calculate the statutory COLA for school apportionments.

"3. Notwithstanding Section 42238.1 of the Education Code, for the 1985–86 fiscal year the Superintendent of Public Instruction shall compute an inflation adjustment for each type of school district equal to the product of subdivisions (a) and (b):

(a) Compute for the sum of the following.

(1) The statewide average base revenue limit per unit of average daily attendance for the 1984–85 fiscal year for districts of similar type

(2) The amount, if any, per unit of average daily attendance received by the district pursuant to Article 8 (commencing with Section 46200) of Chapter 2 of Part 26 of the Education Code for the 1984–85 fiscal year.

(b) The percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the 1984–85 fiscal year. This percentage change shall be determined using the latest data available as of May 1, 1985 ~~; compared with the annual average value of the same deflator for the 12/month period ending in the third quarter of the 1983/84 fiscal year, using the data upon which the inflation adjustment calculated for the 1984/85 fiscal year was based~~. The percentage change computed pursuant to this provision shall be deemed to be the percentage change computed pursuant to Section 42238.1 of the Education Code for the 1985–86 fiscal year."

Finally, I am eliminating $136,300 from the COLA for ROC/P's to correspond to my reduction of the base amount for this program resulting from the revised estimate of current year entitlements.

Item 6360-001-001—For support of Commission on Teacher Credentialing. I eliminate this item.

I have already approved and the Legislature has concurred with four Department of Finance letters totaling $962,000 to augment the Commission's budget I believe the total currently proposed, all of which is a proper charge against the Teacher Credentials Fund, will be adequate for Commission operations. Therefore, I am eliminating the General Fund appropriation of $1,361,000 for support of the Commission on Teacher Credentialing

Item 6440-001-001—For support of University of California. I reduce this item from $1,516,561,400 to $1,509,629,000 by reducing·

(a) Support from $1,499,604,400 to $1,496,972,000,

(f) AIDS Research from $9,200,000 to $4,900,000, and

deleting Provision 13 and revising Provision 7.

I am eliminating legislative augmentations of $400,000 for the California Policy Seminar, $200,000 for the Aging Health Policy Center, and $55,400 and 1 position for the Student Affirmative Action Council The Regents have an established method of requesting support for University activities. These requests have not received internal University review nor the assessment of priority within the University's programs.

In addition, I am eliminating the legislative augmentation of $227,000 for stipends for preventive medicine residents. These residents work for county public health

departments, which should pay for any necessary stipends

I am also eliminating the legislative augmentation of $750,000 for the Lawrence Hall of Science. The University can obtain additional resources for this program by reallocating funds internally or by increasing fees for services

I am reducing the legislative augmentation for janitorial services by $1,000,000 and 41 positions. The University will retain $33,000,000 and 1,258 positions for janitorial services I am also deleting Provision 13 to conform to this action

"13. Of the funds appropriated in schedule (a), $2,000,000 shall be available for additional janitorial services. It is intended that these additional services be performed by university employees only, and not by contract personnel."

In addition, I am reducing $4,300,000 from the legislative augmentation for research into Acquired Immune Deficiency Syndrome (AIDS) The budget will retain $4,900,000 for AIDS research, which should provide sufficient resources for high quality research into this urgent public health problem I am also revising the corresponding language in Provision 7 as follows:

"7 Of the funds appropriated in Schedule (f), $3,900,000 shall be available only for expenditure to support research into Acquired Immune Deficiency Syndrome (AIDS) within the University of California Of this amount, $1,000,000 shall be available to fund research into AIDS in conjunction with non-University of California institutions; ~~$1,600,000 shall be made available for career development awards to encourage the entry of additional researchers into the field of AIDS, and $2,300,000 shall be available for research into AIDS with particular emphasis upon: the replacement of funds lost as result of funding cutbacks by the National Institute of Health, the funding of clinical drug trials at those centers which have been accredited to conduct such trials, which funding may include the administrative appraratus necessary to monitor trial results, and the providing of resources necessary to conduct viral cultures of AIDS causative and related agents. In addition, $400,000 shall be made available to the Institute for Health Policy Studies at the University of California at San Francisco to conduct a study for the Legislature on the medical costs associated with AIDS.~~"

Item 6440-011-001—For support of University of California

I am retaining the $5,360,000 augmentation for general compensation increases for nonacademic employees, which represents a one percent increase to the nonacademic employee compensation package These additional funds will provide for sufficient resources for salary and benefit increases, including special salary adjustments, of up to 7 5 percent in recognition of our interest to recruit and retain competent and dedicated employees and to achieve necessary management objectives through the collective bargaining process

Item 6440-012-001—For support of University of California. I eliminate this item

Special salary adjustments related to the comparability of the value of the work should be addressed through the collective bargaining process I have provided funds for up to a 7.5 percent compensation increase for non-academic employees with the intent that, subject to collective bargaining negotiations, these funds be used for all salary and benefit increases including special salary adjustments. I am, therefore, eliminating $5,055,000 and the related language

Item 6440-301-525—For Capital Outlay, University of California.

I am approving this item with the condition that the Public Works Board is to authorize only short-term notes to finance the equipment purchase projects in categories

(4) 99.03.010—Davis Campus—Equip Food and Agricultural Sciences Building $4,682,000,

(6) 99 08 005—Santa Barbara Campus—Equipment Engineering Unit 2 $4,387,000

The short-term notes to be authorized by the Public Works Board are to be retired by a direct appropriation from the Capital Outlay Fund for Public Higher Education and not refinanced

I am taking this action because I do not believe it is sound fiscal policy to sell bonds for the purchase of equipment when the equipment alone would provide the collateral for those bonds

Item 6600-001-001—For support of Hastings College of Law. I reduce this item from $10,390,000 to $10,244,000 by reducing:

(a) 100000—Personal Services from $9,834,000 to $9,702,000 and

(b) 300000—Operating Expenses and Equipment from $2,861,000 to $2,847,000

I am eliminating the legislative augmentation of $146,000 and 2 8 positions for clinical program supervision. My budget includes $158,000 and 2 positions for a new program for Hastings' students to develop their legal skills through actual work experience by conducting legal research for state policy makers. These additional resources should meet the need for an improved work experience program for Hastings' students.

Item 6600-011-001—For support of Hastings College of Law

I am retaining the $26,566 augmentation for general compensation increases for nonacademic employees which represents a one percent increase to the nonacademic employee compensation package. These additional funds will provide for sufficient resources for salary and benefit increases, including special salary adjustments, of up to 7.5 percent in recognition of our interest to recruit and retain competent and dedicated employees and to achieve necessary management objectives through the collective bargaining process.

Item 6600-012-001—For support of Hastings College of Law I eliminate this item

Special salary adjustments related to the comparability of the value of the work should be addressed through the collective bargaining process. I have provided funds for up to a 7.5 percent compensation increase for non-academic employees with the intent that, subject to collective bargaining negotiations, these funds be used for all salary and benefit increases including special salary adjustments. I am, therefore, eliminating $26,000 and the related language

Item 6610-001-001—For support of California State University I reduce this item from $1,170,323,000 to $1,169,756,000 by reducing.

(a) 01—Instruction from $809,576,000 to $809,268,000,

(c) 04—Academic Support from $149,702,000 to $149,443,000, and

deleting Provision 8 and revising Provision 9.

I am reducing the $308,000 and 12 position augmentation in Instruction for Librarian sabbaticals The 1984–85 collective bargaining process resulted in the shift of librarians to the faculty salary schedule, thus making librarians eligible for sabbaticals This is viewed as a Memorandum of Understanding (MOU) cost, and as such should be funded from the budgeted employee compensation item The budget includes $86,618,000 for employee compensation and benefits for CSU employees of which $52,305,000, equating to an average 10 5 percent salary increase, would be for CSU faculty. This represents the second year of higher than 10 percent increases for CSU faculty. To conform with this action, I am deleting Provision 8.

"8. Of the funds appropriated in this item, $308,000 shall be for sabbaticals for librarians."

I am reducing a legislative augmentation in Academic Support of $737,000 and 8 positions for a Center for Government Studies at the CSU Sacramento campus by $259,000 and 3 5 positions The three elements of this request being reduced include the Sacramento Semester Program, the Survey Center and Issue Dialogue. I am retaining the Senate, Assembly, and Executive Fellows components of this request. Two of the eliminated elements, the Sacramento Semester Program and the Survey Center, were previously denied by this Administration These elements would have added activities to CSU of unknown priority within the scope of its programs. I am accordingly reducing the $737,000 cited in Provision 9 to $478,000.

"9 Of the funds appropriated in this item, ~~$737,000~~ *$478,000* shall be to fund the Center for Government Studies at the California State University Sacramento campus."

Item 6610-031-001—For support of California State University.

I am retaining the $4,575,000 augmentation for general compensation increases for nonacademic employees, which represents a one percent increase to the nonacademic employee compensation package. These additional funds will provide for sufficient resources for salary and benefit increases, including special salary adjustments, of up to 7 5 percent in recognition of our interest to recruit and retain competent and

dedicated employees and to achieve necessary management objectives through the collective bargaining process.

Item 6610-033-001—For support of California State University I eliminate this item. Special salary adjustments related to the comparability of the value of the work should be addressed through the collective bargaining process. I have provided funds for up to 7.5 percent compensation increase for nonacademic employees with the intent that, subject to collective bargaining negotiations, these funds be used for all salary and benefit increases including special salary adjustments. I am, therefore, eliminating $4,067,000 and the related language.

Item 6610-035-001—For support of California State University. I eliminate this item. The additional 1985–86 cost of providing a special salary schedule for the hard-to-hire disciplines resulted from the 1984–85 collective bargaining process, with both CSU and CFA agreeing that the cost would come off the top of any 1985–86 compensation funds. Each party should abide by its agreement and not attempt to circumvent the collective bargaining process Sufficient funds exist in Item 6610-031-001 ($52 3 million for a three-stage average 11.3 percent increase in salary and benefits) to allow the State University to maintain a competitive position for faculty recruitment and retention. In addition, this budget reflects the second year of plus 10 percent average salary increases for CSU faculty. I am therefore eliminating $3,175,000 and the related language

Item 6610-492—Reappropriation, California State University. I reduce the expenditure authority in this item from $2,000,000 to $1,134,000

The budget initially proposed that the General Fund share 50/50 in the concurrent enrollment program revenues, or $2,000,000, but also returned $866,000 to fund specific faculty development requests, $616,000 for faculty travel and $250,000 for faculty retraining In all fairness I believe that $2,000,000 should be reduced by the $866,000 initially returned to CSU under the original proposal

Additionally, for 1986–87 I believe that the revenues and expenditures for the concurrent enrollment program should be included in the Budget Act. If CSU wishes continuation of the $866,000 for faculty development in 1986–87, a budget change proposal should be submitted with funding from the concurrent enrollment revenues.

Item 6870-001-001—For support of Board of Governors of the California Community Colleges I reduce this item from $6,449,000 to $6,249,000 by reducing:

(b) 20 00—Special Services and Operations from $6,968,000 to $6,808,000.

I am reducing this item by $160,000 and 2 0 positions. This amount was added by the Legislature to provide State support for the implementations of a matriculation plan in the community colleges. This conforms to the action I have taken in Item 6870-101-001.

Item 6870-101-001—For local assistance, Board of Governors, California Community Colleges I reduce this item from $1,228,590,100 to $1,168,531,800 by reducing:

(a) 10—Apportionments from $1,151,261,000 to $1,105,315,000,

(b) 20 10 010—Community College Extended Opportunity Programs and Services from $28,736,800 to $27,882,000,

(c) 20.10 020—Disabled Students from $28,435,300 to $25,679,000,

(e) 20.20.020—Partial Financing of the Academic Senate for the Community Colleges from $74,000 to $72,800, and

(f) 20.30.020—Instructional Improvement, for Transfer to the Community College Fund for Instructional Improvement from $783,000 to $283,000,

by eliminating·

(j) 20 10.060—Matriculation $10,000,000, and

deleting Provisions 13 and 15 and revising Provision 2.

I am reducing the community college apportionment program by $45,946,000. The Legislature has indicated in this budget that it is willing to commit $61.5 million on an ongoing basis to community colleges by funding the elimination of the .911 attendance factor with an additional $16,600,000 for a one percent make-up COLA. I am not prepared to make such a major commitment of future General Fund resources. Any such change should take place only in the context of a change in the funding mechanism and recommendations from the Commission for the Review of the Master

Plan on the prioritization of the mission of the colleges.

However, I believe it is essential to provide one-time funds to districts experiencing a loss of revenue due to declining ADA. My budget provides $31,800,000 for this purpose which will be allocated to 49 community college districts to cover 66 percent of that loss. The funding level in the Budget will provide a 9.9 percent apportionment program increase.

Consistent with this action, I am revising Provision 2

"2. (a) Notwithstanding any other provision of law, after sufficient funds have been allocated to comply with the provisions of Article 1 (commencing with Section 84700) of Chapter 5 of Part 50 of the Education Code, an amount not to exceed ~~$75,290,000~~ *$31,844,000* of the amount appropriated in Schedule (a) shall be allocated to community college districts by the Chancellor of the California Community Colleges ~~Of this $75,290,000 the Chancellor may allocate an amount not to exceed $13,790,000 as an augmentation to the provisions of Section 84701 of the Education Code and an amount not to exceed $61,500,000 for purposes of meeting the costs associated with adjusting the absence penalty factor as specified in Section 58003 of Title 5 of the Administrative Code or~~ for allocation to those districts which are most in need of revenue adjustments due to declining average daily attendance

~~(b) If allocations are made for the purpose of funding the costs associated with adjusting the absence penalty factor, the Chancellor may adjust the number of funded average daily attendance for any community college district above that level defined in subdivision (c) of Section 84701 of the Education Code. However, no district shall receive these additional funds for the average daily which exceeds that district's 1982/83 level of funded average daily attendance plus any allowable growth in the average daily attendance for the 1985/86 fiscal year funded pursuant to the provisions of Section 84706 of the Education Code.~~

(c) Unless allocated to districts for purposes of deferring revenue adjustments for declining average daily attendance, amounts allocated pursuant to these provisions shall be considered as part of the district base revenues for the 1986–87 fiscal year Prior to the allocation of funds in excess of the amount necessary to meet the provisions of Article 1 (commencing with Section 84700) of Chapter 5 of Part 50 of the Education Code, the Chancellor shall first obtain the approval of the Director of Finance The Director of Finance shall notify the Joint Legislative Budget Committee of the methods to be used for allocating these funds not less than 30 days prior to the allocation."

I am reducing the EOPS program by $854,800 and the Disabled Student Program by $756,300 which were additional cost-of-living adjustments provided by the Legislature My budget provides $53 6 million for these programs. This includes a 4 percent cost-of-living adjustment consistent with that provided other categorical programs.

I am also reducing the Disabled Student Program by $2,000,000. These funds were requested to serve additional disabled students in the community colleges While I am supportive of this program, I believe it is critical that the Chancellor's Office provide better documentation on how estimates of program growth are derived Until such documentation is provided, we cannot ascertain how these funds will be allocated and cannot, therefore, justify this augmentation.

I am reducing the partial Financing of the Academic Senate by $1,200 This will provide a 4 percent cost-of-living adjustment for this program which is consistent with that provided other categorical programs.

I am reducing the amount provided for Instructional Improvement Grants by $500,000. The $283,000 provided in my budget is sufficient to fund the high priority grant requests.

I am eliminating the $10,000,000 provided for matriculation services. As indicated in my veto message of AB 2638 of last year, I believe this area of student services is one that should be reviewed by the Commission for the Review of the Master Plan

To conform to this action I am also deleting Provision 13.

"13. The funds appropriated in Category (i) are to be allocated for matriculation services in accordance with statutory provisions. If there are no statutory provisions, the funds shall be allocated by the Chancellor in accordance with a plan specified by the Board of Governors. No funds shall be allocated prior to 30-day notification to the Joint Legislative Budget Committee of the allocation plan."

To conform to action taken elsewhere in this budget, I am also deleting Provision 15.

"15 Of the funds appropriated in Category (a), $2,810,000 is for direct payment to State Teachers' Retirement System for the purpose of funding the cost of increased service credit retirement benefits in lieu of the amount required pursuant to Section 22720 of the Education Code On July 1, 1985, the Controller shall transfer $2,810,000 from the amount appropriated in Category (a) of this item to Category (ee) of Item 9680-101-001 of this act"

I am eliminating this transfer of funds because I believe it will imply that the costs of service credit awarded STRS retirees for unused sick leave pursuant to Chapter 89, Statutes of 1974, are reimbursable State mandated costs However, I recognize the need to permanently resolve the issue of support for STRS sick leave service credit. Therefore, I am retaining Provision 13 in Item 9680-101-001 which states the Legislature's intent to permanently resolve this issue through separate legislation. In addition, I am setting aside $18,000,000 to be used, if necessary, to fund the first year cost of the legislation.

Item 6870-101-146—For local assistance, Board of Governors of the California Community Colleges. I reduce this item from $12,200,000 to $6,100,000, and modifying Provision 2.

Of the $6,100,000 remaining in this item, $5,000,000 is provided to fund additional deferred maintenance projects in the community colleges. This is a high priority use of funds and will provide a budget total of $13,000,000 to help eliminate the critical backlog of repairs The remaining funds are for equipment replacement needs. This is another high priority use of one-time funds in the community colleges With the $25,000,000 provided in Item 6870-101-036, community colleges will receive $40 per ADa for equipment replacement needs

I am adjusting the language in Provision 2 to reflect this reduction.

"2 Of the amount appropriated in this item, ~~$7,200,000~~ *$1,100,000* is available on a one-time basis for the purpose of providing community college districts with funds to make one-time purchases of instructional equipment. These funds are to be allocated by the Chancellor on a per ADA basis to the districts."

Item 6870-101-909—For local assistance, Board of Governors of the California Community Colleges. I reduce this item from $967,000 to $467,000, and revising Provision 1.

This action conforms to the reduction made in Item 6870-101-001 (f), Instructional Improvement. The $467,000 provided in my budget will fund the high priority program requests.

I am also adjusting the language in this item so that $283,000 is available for allocation for grants.

The remaining amount in this appropriation is for Instructional Improvement loans to community colleges.

I am revising Provision 1 to reflect this reduction.

"1 Of the amount appropriated by this item, not more than ~~$783,000~~ *$283,000* shall be allocated for grants and not more than $184,000 shall be allocated for loans."

Item 6870-111-146—For local assistance, Board of Governors of the California Community Colleges. I eliminate this item.

I am deleting the $2,000,000 in this item. AB 1177, which was introduced this year, would authorize the construction of child care facilities at community college districts under the terms of the Community College Construction Act of 1980. If the determination is made that child care facilities should qualify for allocation of funds, then any such proposals should be reviewed during the regular capital outlay budget process in order to determine need and priority use of the funds.

Item 6870-301-146—For capital outlay, Board of Governors of the California

Community Colleges. I reduce this item from $33,138,000 to $28,304,000, by eliminating.

(10.1) 40 26 060.020—Los Angeles Community College District, Los Angeles Southwest College, working drawings, occupational technology building $236,000,

(10 2) 40.26.060 040—Los Angeles Community College District, Los Angeles Southwest College, working drawings, physical education facilities $426,000,

(40) 40.19.010 030—Grossmont Community College District, Cuyamaca College, working drawings, outdoor physical education facilities $93,000,

(45) 40.40.40 030—Peralta Community College District, Merritt College, working drawings, conversion of existing space $75,000, and

(46) 40 70 010.020—Yosemite Community College District, Columbia College, construction, multipurpose instructional facility $4,004,000

I am reducing this item by a total of $4,834,000 The five projects I am deleting are not high priority projects for 1985–86 and in most cases the campuses are overbuilt and have excess space due to reduced enrollment The future costs of these projects would require $18 1 million

I am requesting that the Board of Governors review these projects during their consideration of other projects for 1986–87 funding This deferral will not have a detrimental effect on State educational programs and will allow proper review through the budgetary process

Item 8100-001-001—For support of Office of Criminal Justice Planning I reduce this item from $3,763,000 to $3,463,000 by reducing

(b) 300000—Operating Expenses and Equipment from $2,520,000 to $2,220,000, and deleting Provision 6.

I am reducing $200,000 for courtroom renovation because there are other less costly alternatives for making courtrooms more "friendly" to minors I also believe that it would be appropriate that the authorizing legislation contain funding for the program

I am reducing $100,000 for an Indian consultant because the Federal Government has the primary responsibility for addressing criminal justice matters on federal trust land In addition, the Attorney General's Office has an Indian liaison addressing the specialized legal needs of Indian communities. In conjunction with this action, I am deleting Provision 6

"6 Of the funds appropriated in Schedule (b), $100,000 shall be available to support the development of a report which would define criminal justice problems and needs unique to California Indians living on trust land and would develop specific recommendations on responsibilities and potential remedies. The Indian Justice Ad Hoc Committee, comprising representatives from the Southern California Tribal Chairmen's Association, the California Council of Tribal Government, the Owens Valley Tribal Association, and other appropriate groups, will participate with the Office of Criminal Justice Planning in the selection of consultant services utilized and in providing the direction for the needs assessment."

Item 8100-101-001—For local assistance, Program 50, Local Project Awards, Office of Criminal Justice Planning I reduce this item from $23,046,000 to $16,046,000 by eliminating·

(j) 50 90—Runaway and Homeless Youth Program $6,000,000,

(k) 50 95—Courtroom Renovation for Minors $800,000,

(*l*) 50.96—Family Violence Prevention Program $200,000, and

deleting Provision 7

I am eliminating the $200,000 in the Family Violence Prevention Program because I have already expanded funding for family violence prevention activities from $200,000 to $1,700,000 (including $200,000 in the Community Crime Resistance Program)

I am eliminating the $6,000,000 augmentation for the Runaway and Homeless Youth Program because. (1) it would be premature to establish such a program before the State Advisory Group on Runaways completes its study, (2) the detailed needs of the program have not been delineated and the basis for the proposed level of support is unclear, and (3) it would be appropriate that the authorizing legislation contain funding for the program I also am deleting Provision 7 in conjunction with this action

as follows:

"7. The amount appropriated in Schedule (j) shall be for transfer to the Runaway and Homeless Youth Account in the General Fund, contingent upon the enactment of legislation during the 1985–86 Regular Session of the Legislature authorizing the Runaway and Homeless Youth Program."

I am eliminating the $800,000 augmentation for the Courtroom Renovation for Minors Program because there are other less costly alternatives for making courtrooms more "friendly" to minors. I also believe that it would be appropriate that the authorizing legislation contain funding for the program

Item 8100-101-483—For local assistance, Office of Criminal Justice Planning. I eliminate this item.

I am eliminating this $6,000,000 item consistent with my action on Item 8100-101-001 related to the Runaway and Homeless Youth Program.

Item 8260-001-001—For support of California Arts Council. I reduce this item from $2,818,000 to $2,340,000 by reducing.

(a) 100000—Personal Services from $1,857,000 to $1,707,000,

(b) 300000—Operating Expenses and Equipment from $1,024,000 to $672,000, and

(c) Amount payable from the Federal Trust Fund (Item 8260-001-890) from −$63,000 to −$39,000,

and deleting Provision 1

I am eliminating the $478,000 legislative augmentation to administer the $3,504,000 in additional grant money to correspond with my veto in Item 8260-101-001 In addition, I am also deleting Provision 1 because the related augmentation is eliminated.

Item 8260-001-890—For support of California Arts Council I reduce this item from $63,000 to $39,000.

I am eliminating the $24,000 legislative augmentation to administer the $3,504,000 in additional grant money to correspond to my veto in Item 8260-101-001.

Item 8260-101-001—For local assistance, California Arts Council. I reduce this item from $12,856,000 to $9,352,000,

and deleting Provisions 2, 3 and 4.

I am eliminating the $3,504,000 legislative augmentation for the local assistance, grants and subventions for the California Arts Council. The budget provides a 16 percent increase over the 1984–85 fiscal year which I consider to be an adequate funding level.

In addition, I am also deleting Provisions 2, 3, and 4, as follows, because the related augmentation is reduced in its entirety.

"2. Of the amount appropriated in this item, the council shall allocate $25,000 to the Los Angeles Film Exposition (Filmex) for the purpose of providing funding for a Hispanic film series."

"3 Of the amount appropriated in this item, $100,000 shall be used to develop a minority technical assistance network."

"4 Of the amount appropriated in this item, $500,000 shall be used for the Independent Artists portion of the Artists in Residence and Independent Artists program."

Item 8300-001-001—For support of Agricultural Labor Relations Board. I reduce this item from $9,180,000 to $7,980,000 by eliminating:

(e) 40—Compliance Workload $1,200,000, and

deleting Provisions 1, 2, and 3

I am eliminating the $1,200,000 legislative augmentation for the compliance cases backlog because the budget includes $4,192,000 in the General Counsel Program to accomplish the existing workload, including the elimination of the compliance cases backlog. In addition, I am deleting Provisions 2 and 3 to conform to this action

"2. The five-member board shall prepare a report which evaluates the feasibility of contracting-out to an external source all or portions of the work required in compliance cases. The report shall include a plan for pursuing compliance which details both the internal and external resource to be used by the agency for compliance workload. The report shall be due to the fiscal committees and

to the Joint Legislative Budget Committee no later than September 1, 1985."

"3 No fund shall be encumbered by the five-member board from those provided in schedule (e) until such time as the five-member board has submitted the report specified in Provision (1) to the fiscal committees and the Joint Legislative Budget Committee. Any funds encumbered from schedule (e) shall be committed in accordance with the compliance plan by January 1, 1986."

I am also deleting Provision 1, which requires notification of the Joint Legislative Budget Committee prior to granting request for release of confidential materials This language places undue restrictions on the authority of the Executive Branch to release confidential information.

"1. Thirty days prior to granting any request for the release of confidential materials related to farmworker complaints or litigation, the General Counsel or the Agricultural Labor Relations Board, whichever party is the recipient of the request, shall notify the Joint Legislative Budget Committee of (1) the nature of the request, (2) the requesting party, and (3) the nature of the material"

Item 8350-001-001—For support of the Department of Industrial Relations. I reduce this item from $94,673,000 to $93,375,000 by reducing:

(c) 30—The Preventing, Settling, Adjudicating and Administering Disputes under Workers' Compensation Laws from $43,578,000 to $42,530,000,

(d) 40—The Prevention of Industrial Injuries and Deaths of California Workers from $39,104,000 to $38,854,000,

I am reducing the Department of Industrial Relations' budget by $1,298,000 to eliminate certain augmentations made to the Governor's Budget. This reduction includes $1,048,000 and 21 positions for the Workers' Compensation Appeals Board (WCAB). The current budget of $42,530,000 and 782 personnel years provides an adequate level of funding to accomplish the existing workload I am reducing $100,000 for purposes of compliance inspections and monitoring of school asbestos abatement projects The Department of Industrial Relations can provide the same services within their existing resources of $24,041,000 and 396.3 personnel years. I am reducing $150,000 to partially fund four positions in the Department of Health Services. These positions were vetoed in the Department of Health Services, Item 4260-001-001 The Department of Health Services has provided evidence that the remaining $36,603,822 and 1,328.3 positions will provide sufficient resources so as not to adversely affect program performance

Item 8350-011-001—For support of the Department of Industrial Relations I eliminate this item.

I am eliminating the $200,000 legislative augmentation, and the related language, to contract for an external consultant's services for an evaluation of the departmentwide automated management information system This evaluation is unnecessary and would cause additional delays toward the implementation of the departmentwide automation plan.

Item 8570-001-001—For support of the Department of Food and Agriculture I reduce this item from $54,515,000 to $54,014,000 by reducing:

(a) 10—Pesticide Regulatory Program from $18,359,000 to $17,959,000,

(b) 20—Plant Pest and Disease Prevention from $23,946,000 to $23,891,000, and

(f) 50—Measurement Standards from $2,165,000 to $2,119,000

I am reducing the Department of Food and Agriculture's budget by $501,000 This reduction includes $400,000 and 4 positions for toxic air contaminant-pesticide activities in the Pesticide Regulatory Program. The budget provides an adequate level of funding for an effective toxic air contaminants-pesticide review in coordination with the workload activities of the Scientific Review Panel and the Air Resources Board. This action conforms to my veto in Item 3400-001-001.

I am eliminating $55,000 for a study of specified pest introductions for which related funding has already been provided

In addition I am deleting $46,000 for kosher food inspection activities. There is legislation regarding this program and funding should be contained in the bill

Item 8660-001-412—For support of Public Utilities Commission. I change this item by reducing.

(a) 100000—Personal Services from $39,979,000 to $39,713,000,

(b) 300000—Operating Expenses and Equipment from $16,074,000 to $15,710,000,

(g) Amount payable from the Public Utilities Commission Utilities Reimbursement Account from −$32,242,000 to −$31,612,000, and

deleting Provision 5.

I am reducing these subitems to conform to a reduction of $630,000 in Item 8660-001-462 which was added in augmentation of the Commission's data processing capabilities with respect to computer models. I am also deleting Provision 5, because the veto of this augmentation makes the language unnecessary

"5 Of the amount appropriated in this item, $630,000 budgeted for monitoring utility computer models may be expended no sooner than 30 days after the Department of Finance notifies the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee of each house which considers appropriations of its approval of funding for this "

Item 8660-001-462—For support of Public Utilities Commission I reduce this item from $32,242,000 to $31,612,000

I am reducing this item by $630,000 and 6 personnel years to eliminate the augmentation which would provide additional staffing for the study and oversight of computer models used by utility companies. Pending legislation, AB 475, would mandate a specific program within the Public Utilities Commission for the oversight, improvement, validation, and verification of computer models used by utility companies. Both the need for that policy change and its requisite funding should be considered together as part of AB 475

Item 8735-001-001—For support of California Tax Reform Study Commission I eliminate this item.

I am eliminating this $300,000 item because I believe there are sufficient funds available in this budget for the Legislature to use for a study such as this.

Item 8820-001-001—For support of Commission on the Status of Women.

While this Budget Act proposes a reduced level of expenditure, I will be requesting separate legislation to restore the Commission on the Status of Women's budget to the level as proposed in my 1985–86 budget

Item 8860-001-001—For support of Department of Finance I change this item by eliminating

(g) Capital Outlay Cost Estimating $652,000,

(h) Amount payable from the Architecture Revolving Fund (Item 8860-001-602) −$652,000, and

deleting Provisions 7, 8, 9, 10, 11 and 12

I am eliminating the amount payable from the Architecture Revolving Fund which would have allowed the expenditure of $652,000, in order to prevent the transfer of the Capital Outlay Control Unit from the Department of General Services (Office of the State Architect) to the Department of Finance. Although this action has no net funding impact on this item, the $652,000 payable from Item 8860-001-602 has been eliminated Existing statutes specify that the services provided by the State Architect are to be performed under the general direction of the Department of General Services, and that such services be supported by appropriations received by the Department of General Services. The transfer of this function to the Department of Finance, therefore, cannot be accomplished To insure that the Capital Outlay Project estimating process function is performed, I am recommending that the Legislature authorize urgency legislation to re-establish the $652,000 and 14 positions within the Department of General Services

I am also deleting Provisions 7, 8, 9, 10, 11 and 12

"7 The funds in category (g) shall be used to establish a Capital Outlay Control Unit in the Department of Finance None of these funds shall be used for staff of the Office of the State Architect."

"8. The Capital Outlay Control Unit, in consultation with the Office of the State Architect, shall determine which projects the Office of the State Architect will design using in-house professional staff. The selected projects shall be determined based on (1) the State Architect's selection of the projects he or she determines the office can accomplish within the time frames established for the ensuing fiscal year and (2) maintaining the level of professional staff assigned

to basic and non-basic architectural and engineering services as specified under Item 1760-001-602 of this act."

"9. The Capital Outlay Control Unit shall negotiate a fee for services with the Office of State Architect for each project assigned to that office. The unit shall enter into an interagency agreement with the office which sets forth the project schedule, and the fees for each phase of the project. The unit shall make progress payments to the office based on a set percentage completion of each phase of each project Prior to any payment to the office, the Department of Finance shall review and concur in the percentage of project completion used as the basis for payment. The interagency agreement and payment schedule for each project shall be similar to contracts entered into with private architectural/engineering consulting firms."

"10. The Capital Outlay Control Unit shall be responsible for contracting with private sector firms to undertake work on the capital outlay projects assigned to the Department of General Services. After establishing the projects to be undertaken by the Office of the State Architect, the unit shall immediately begin the process for selecting private Architectural/Engineering consulting firms to undertake the remaining projects."

"11 The Director of the Department of Finance shall, by March 1, 1986, report to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee in each house which considers appropriations, on the status of each project under the Capital Outlay Control Unit The report shall include, for each project, the project status compared to the original schedule, interagency/contractual fees and any cost savings or overruns."

"12 The office of the Legislative Analyst shall provide to the chairperson and vice chairperson of the fiscal committee of each house which considers appropriations a copy of all written questions asked by that office concerning state capital outlay projects "

Item 8860-001-602—For support of Department of Finance I eliminate this item. I am eliminating this $652,000 item which would have transferred the Capital Outlay Control Unit functions from the Department of General Services to the Department of Finance. This action corresponds to action taken on Item 8860-001-001

Item 9680-101-001—For local assistance, State Mandated Local Programs I reduce this item from $109,842,000 to $105,478,000 by reducing:

(xh) Unused Sick Leave Credit from $18,718,000 to $1,000 and eliminating,

(dd) Reimbursement from Department of Education for payment of STRS unused sick leave credit —$11,543,000, and

(ee) Reimbursement from California Community Colleges for payment of STRS unused sick leave credit —$2,810,000.

I am reducing this augmentation to $1,000 because I believe that it will imply that the costs of service credit awarded STRS retirants for unused sick leave pursuant to Chapter 89, Statutes of 1974, are reimbursable State mandated costs However, I recognize the need to permanently resolve the issue of support for STRS sick leave service credit Therefore, I am retaining Provision 13 in Item 9680-101-001 which states the Legislature's intent to permanently resolve this issue through separate legislation In addition, I am setting aside $18,000,000 to be used, if necessary, to fund the first year cost of the legislation.

Item 9800-001-001—For support of Employee Compensation Increases. I reduce this item from $196,550,000 to $185,698,000,

by eliminating:

(b) Pay equity adjustments $10,852,000, and

deleting Provision 3

I am eliminating this augmentation for pay equity adjustments related to the comparability of the value of the work, as the issue is a subject of current negotiations which is consistent with State law which specifies that no such adjustments may be made without the agreement of employee unions. All salary and benefit increases, including special salary adjustments, must be negotiated and funded within resources available for compensation increases.

I am also deleting Provision 3 of this item, relating to pay equity adjustments The criteria set forth in this language, which restricts the use of funds for the subject purposes, are also negotiable.

"3 The funds appropriated in Schedule (c) shall be used solely for pay equity adjustments related to the comparability of the value of the work, in accordance with provisions of Section 19827 2 of the Government Code, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, the Assembly Committee on Rules, the Senate Committee on Rules, the Joint Rules Committee, the Joint Legislative Audit Committee, and the Joint Legislative Budget Committee, in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to the General Fund, and each officer or employee of either house of the Legislature or joint committee thereof, to receive any such pay equity adjustments provided on or after January 1, 1986, by the Department of Personnel Administration, or any committee of the Legislature responsible for establishing salaries for officers and employees of the Legislature, as the case may be. Appropriated funds are to allocated proportionally (a) to each of the bargaining units representing employees in state civil service based on the number of employees in female-dominated classifications within each of these units, and (b) to the several state offices, departments, boards, bureaus, commissions, and other state agencies for nonrepresented employees based on the number of employees in female-dominated nonrepresented classes of the several state offices, departments, boards, bureaus, commissions, and other state agencies. Distribution of any appropriated funds within each bargaining unit shall be determined by memoranda of understanding between the Department of Personnel Administration and the exclusive representatives representing state civil service employees

Bargaining over pay equity adjustments made from these funds shall not commence prior to the implementation of regular 1985–86 employee compensation adjustments. Pay equity adjustments shall not be retroactive to any time prior to January 1, 1986.

Funds appropriated for pay equity adjustments related to comparability of the value of the work are to be allocated by executive order of the Department of Finance in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in a manner consistent with Section 19827.2 of the Government Code."

I am retaining the $23,390,000 augmentation for general compensation increases which represents a one percent increase to the employee compensation package These additional funds will provide for sufficient resources for salary and benefit increases, including special salary adjustments, of up to 7.5 percent in recognition of our interest to recruit and retain competent and dedicated employees and to achieve necessary management objectives through the collective bargaining process

Item 9800-001-494—For support of Employee Compensation Increases I reduce this item from $104,526,000 to $98,187,000,

by eliminating

(b) Pay equity adjustments $6,339,000, and

deleting Provision 3.

This augmentation of various special funds for pay inequity adjustments is reduced for the same reasons stated in my action on Item 9800-001-001 Accordingly, I am also deleting Provision 3 of this item, relating to pay equity adjustments.

"3 The funds appropriated in Schedule (c) are to be used solely for pay equity adjustments related to the comparability of the value of the work, in accordance with provisions of Section 19827 2 of the Government Code, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or

employee in the state service, whose compensation, or portion thereof, is chargeable to special funds, to receive any such pay equity adjustments provided on or after January 1, 1986, by the Department of Personnel Administration. Appropriated funds are to be allocated proportionally: (a) to each of the bargaining units representing employees in state civil service based on the number of employees in female-dominated classifications within each of these units, and (b) to the several state offices, departments, boards, bureaus, commissions, and other state agencies for nonrepresented employees based on the number of employees in female-dominated nonrepresented classes of the several state offices, departments, boards, bureaus, commissions, and other state agencies Distribution of any appropriated funds within each bargaining unit shall be determined by memoranda of understanding between the Department of Personnel Administration and the exclusive representatives representing state civil service employees.

Bargaining over pay equity adjustments made from these funds shall not commence prior to the implementation of regular 1985–86 employee compensation adjustments Pay equity adjustments shall not be retroactive to any time prior to January 1, 1986.

Funds appropriated for pay equity adjustments related to comparability of the value of work are to be allocated by executive order of the Department of Finance in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in a manner consistent with Section 19827.2 of the Government Code."

I am retaining the $13,303,000 augmentation to various special funds which represents a one percent increase to the 6 5 percent employee compensation package I provided for the same reasons stated under Item 9800-001-001

Item 9800-001-988—For support of Employee Compensation Increases I reduce this item from $84,519,000 to $79,326,000 by eliminating·

(b) Pay equity adjustments $5,193,000, and

deleting Provision 3.

This augmentation of various nongovernmental funds for pay inequity adjustments is reduced for the same reasons stated in my action on Item 9800-001-001 Accordingly, I am also deleting Provision 3 of this item, relating to pay equity adjustments

"3. The funds appropriated in Schedule (c) are to be used solely for pay equity adjustments related to the comparability of the value of the work, in accordance with provisions of Section 19827 2 of the Government Code, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to nongovernmental cost funds, to receive any such pay equity adjustments provided on or after January 1, 1986, by the Department of Personnel Administration. Appropriated funds are to be allocated proportionally (a) to each of the bargaining units representing employees in state civil service based on the number of employees in female-dominated classifications within each of these units, and (b) to the several state offices, departments, boards, bureaus, commissions, and other state agencies for nonrepresented employees based on the number of employees in female-dominated nonrepresented classes of the several state offices, departments, boards, bureaus, commissions, and other state agencies. Distribution of any appropriated funds within each bargaining unit shall be determined by memoranda of understanding between the Department of Personnel Administration and the exclusive representatives representing state civil service employees Bargaining over pay equity adjustments made from these funds shall not commence prior to the implementation of regular 1985–86 employee compensation adjustments. Pay equity adjustments shall not be retroactive to any time prior to January 1, 1986

Funds appropriated for pay equity adjustments related to comparability of

the value of the work are to be allocated by executive order of the Department of Finance in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in a manner consistent with Section 19827.2 of the Government Code "

I am also retaining the $9,789,000 augmentation to various nongovernmental funds which represents a one percent increase to the 6.5 percent employee compensation package I provided for the same reasons stated under Item 9800-001-001.

SEC. 8.50

I am deleting Provisions (d) and (e).

"(d) The director of any department who submits a proposal for applications for federal grant funds to the Director of Finance for prior review shall, at the same time this proposal is submitted, send a copy thereof to the chairperson of the committee in each house which considers appropriations and to the Chairperson of the Joint Legislative Budget Committee "

"(e) On or before October 1, 1985, the director of any department which received federal grant funds in the 1984-85 fiscal year shall submit to the chairperson of the committee in each house which considers appropriations and to the Chairperson of the Joint Legislative Budget Committee a report listing the amount and source of all federal funds received by that department during the 1984-85 fiscal year "

This restrictive control language is inappropriate and unnecessary. It has been the policy and practice of this Administration, through the appearances of its appointees before legislative committees and through the provision of written information upon request, to make available to the Legislature the information to which it is entitled regarding budgetary proposals and expenditures.

SEC. 11.50—I am revising general control subdivisions

I am reducing the Energy and Resources Fund transfer in Subdivision (a) and the Capital Outlay Fund for Public Higher Education transfer in Subdivision (b) to conform to my veto actions in this budget.

I am deleting Subdivisions (c) and (d) of Section 11.50 to retain the unallocated balances of tidelands oil revenues in the Special Account for Capital Outlay as specified in Section 6217, Subdivision (h), of the Public Resources Code The effect of this action is to prevent the transfer of tidelands oil revenues to the General Fund. As a general principle, I do not favor diverting special funds to maintain the General Fund.

"SEC 11.50 (a) Notwithstanding any other provisions of law, the allocation to the Energy and Resources Fund made pursuant to subdivision (g) of Section 6217 of the Public Resources Code ~~and subdivision (d) of this section~~ shall be ~~six million one hundred sixty/eight thousand dollars ($6,168,000)~~ *five million six hundred eighty-two thousand dollars ($5,682,000)* for the 1985-86 fiscal year. The Director of Finance may allocate funds among the Energy and Resources Fund· the Energy Account, Energy and Resources Fund; and the Resources Account, Energy and Resources Fund

(b) Notwithstanding any other provisions of law, the allocation to the Capital Outlay Fund for Public Higher Education made pursuant to subdivision (e) of Section 6217 of the Public Resources Code ~~and subdivision (d) of this section~~ shall be ~~one hundred thirty eight million nine hundred twenty/six thousand dollars ($138,926,000)~~ *one hundred twenty-five million nine hundred ninety-two thousand dollars ($125,992,000)* for the 1985-86 fiscal year.

~~(c) Notwithstanding any other provision of law, the allocation to the Special Account for Capital Outlay made pursuant to subdivision (h) of Section 6217 of the Public Resources Code and subdivision (d) of this section shall be one hundred eighteen million seven hundred eighteen thousand dollars ($118,718,000) for the 1985/86 fiscal year~~

~~(d) Notwithstanding any other provisions of law, the allocations of revenues, following the allocation made pursuant to subdivision (d) of Section 6217 of the Public Resources Code shall, for the next one hundred fifty million dollars ($150,000,000), be distributed, equally each month among the funds designated in subdivisions (a), (b), and (c) of this section and in subdivision (f) of Section 6217~~

~~of the Public Resources Code subject to the dollar limitations contained in subdivisions (a), (b), and (c) of this section and subdivision (f) of Section 6217 of the Public Resources Code, Revenues, moneys and remittances received in excess of the one hundred fifty million dollar ($150,000,000) amount shall be allocated to subdivisions (a) and (b) of this section an subdivision (f) of Section 6217 of the Public Resources Code and subdivision (c) of this section in that order, subject to the dollar limitations contained in subdivisions (a), (b), and (c) of this section and subdivision (f) of Section 6217 of the Public Resources Code, with any remaining amounts deposited in the General Funds.~~ "

SEC. 24 50—California State University I eliminate this section

I do not believe a lottery loan program is necessary, simply because the Lottery has not yet been fully implemented Further, this loan program is contrary to statutory law Since lottery funds are "supplemental", no existing programs will been jeopardized.

SEC. 24 70—I eliminate this section

I join with the Legislature as it "acknowledges and supports the basic premises of human dignity and self-determination, recognizing that fundamental freedoms and democratic principles are the cornerstones of individual rights."

I also agree with the Legislature as it "condemns in the strongest terms possible the denial of human rights throughout the world, including the official apartheid policies of the Republic of South Africa. These policies, which deny freedom, equality, self-determination, physical security and economic opportunity to black and other nonwhite individuals, are contrary to the fundamental concepts of human rights and liberty cherished in our country and upon which it was founded "

However, I have concluded that the State Budget is not the appropriate instrument in which to express our abhorrence of apartheid and our advice to the fiduciaries of state pension funds. An appropriate instrument for the Legislature would be an official resolution.

The budget is a spending plan for the programs and services of state government It is not a foreign policy document That is the responsibility of Congress and the President They have the authority to turn up the pressure against the repressive South African regime. I believe it is time they did.

The language in the State Budget pertaining to South Africa raises some constitutional questions pertaining to the fiduciary obligations of the governing boards of state retirement funds

Article XVI, Section 17 of the California Constitution reads in part

"(a) The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purpose of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system."

"(b) The fiduciary of the public pension or retirement system shall discharge his or her duties with respect to the system solely in the interest of, and for the exclusive purpose of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system."

In deleting the budget language pertaining to South Africa, I am also urging the governing boards of all state pension systems to immediately begin a systematic review of their investments, utilizing the standards of good corporate conduct established by the Board Regents of the University of California on June 21, 1985

I believe that approach sends a clear, unmistakable signal to both our policymakers in Washington and more importantly, to the regime in South Africa, that the pace of change away from apartheid is too slow. At the same time, this anti-apartheid message is sent in a manner which is consistent with our legal and moral obligations to those who are depending on the sound investment of their pension funds

SEC 24 80—For local assistance, Department of Education I revise this Section to reduce the appropriation from $60,000,000 to $4,000,000

In the 1984–85 fiscal year, in response to a variety of demands for increased State assistance for child care services, I established the Child Care Task Force to conduct a review of the various demands and to recommend a course of action which would

provide the most cost effective services for those with the greatest needs.

The Child Care Task Force conducted a statewide survey and analysis and found that needs for child care vary widely as to type of care desired, and as to the ages of children for which parents seek child care. On this basis, the task force has recommended that local jurisdictions individually assess the availability and needs for child care.

In the 1984–85 fiscal year, I signed AB 3138 and SB 1674 to provide an increase of $8.5 million in those child care programs which help the neediest—programs for the handicapped and respite care for children of parents needing temporary assistance. My actions also provided for the funding of at least one Resource and Referral Agency in each county, so that parents and child care providers, as well as local jurisdictions, would have a local base of expertise to turn to for assistance in meeting demands for child care services. I believe that this base will be of great assistance to local jursidictions in this effort.

The Child Care Task Force also found that additional state assistance in selected child care programs could have an immediate and significant impact on providing for the most urgent child care needs. On this basis, I am approving an augmentation of $1.6 million for the School-Age Parenting and Infant Development Program, which will provide a 33 percent increase in State funding to assist high school and junior high school parents complete their educations. I am also approving the augmentation of $2 4 million for the Alternative Payment Program which is one of the most cost effective means of providing additional child care while retaining parental choice in the selection of such services. I will also support the passage of legislation to appropriate an additional $3.6 million for the Alternative Payment Program, which when combined with the augmentation in this act, will provide a total augmentation of $6 million, or 32 percent, in such funding. Finally, I will support legislation to appropriate an additional $1 million in augmentation of the Work Incentive Program to provide child care services for parents participating in job search activities in the WIN program This 33 percent increase is consistent with the goals of my Administration to encourage those that are able to become selfsufficient members of society

My total proposed increase of $8 6 million will, I believe, provide for our most urgent child care needs.

I revise this section as follows:

"SEC. 24 80 (a) the sum of ~~thirty million dollars ($30,000,000)~~ *four million dollars ($4,000,000)* is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 1985–86 fiscal year, in addition to, and in augmentation of, the appropriation in Item 6100-196-001 and any other appropriations for the purposes of child care and development services, for expenditure for the purposes of Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code for allocation in accordance with the following schedule:

~~(1) Campus child care and development programs ..... $3,000,000~~

~~(2) Migrant child care and development programs ..... $3,000,000~~

(3) Child care and development programs serving the children of teenage parents, including, but not limited to, school age parenting and infant development programs ..... ~~$3,000,000~~ *$1,600,000*

~~(4) Respite child care service ..... $3,000,000~~

(5) Alternative payment programs $2,400,000

~~(6) State preschool program reimbursement rate increases ..... $1,200,000~~

~~(7) State preschool program transportation ..... $300,000~~

~~(8) Intergenerational child care ..... $300,000~~

~~(9) Parent services projects ..... $300,000~~

~~(10) Child development division study of severely handicapped needs $45,000~~

~~(11) All other child care and development programs ..... $13,455,000~~

~~(b) The sum of thirty million dollars ($30,000,000) is hereby appropriated from the General Fund for expenditure for latchkey programs pursuant to the provisions of SB 303 and contingent upon the enactment of SB 303 into law.~~"

SEC. 25.00—I eliminate this section.

This section would appropriate $5,000,000 for a new Academy for the Advancement of Public Policy. My budget includes sufficient resources for the Legislature and the Administration to enable State policy makers to stay informed about public policy issues. To the extent that the proposed activities of the Academy represent an improvement over current means of obtaining information, existing resources could be redirected to those types of activities.

With the above deletions and reductions, I hereby approve Senate Bill No. 150.

The actions I have taken on Senate Bill No. 150 will continue the reserve established in the 1984 Budget Act at the 3.7 percent level and provide funding for budget-related legislation now before me but not fully funded. These measures are:

- Assembly Bill No 38 dealing with court-ordered and voluntary desegregation costs, ($95,000,000);
- Senate Bills No 1079 and No. 125 reducing the cost of the solar and energy conservation tax credits ($16,000,000 net change from the Budget Act); and
- Assembly Bill No 36 and Senate Bill No. 20 providing for a guarantee of a loan in the Western Money Center situation ($63,000,000)

Additionally, these actions will reverse the proposed transfer of Tidelands revenues to the General Fund which I believe is not sound budget policy and reverse the arbitrary increase in revenues based on the unjustified addition of auditors to the Franchise Tax Board.

The actions I have taken on Senate Bill No 150 will also permit me to set aside sufficient funds to support legislation to address the following priorities and obligations;

- Provision for further funding equalization for school districts ($21,000,000),
- Funds to assist in repairing our streets and roads ($125,000,000);
- Increased efforts to clean up the groundwater in the Stringfellow toxic waste situation ($10,000,000 General Fund and $15,000,000 special funds).
- Additional funds for child care ($4,600,000),
- Addressing the costs to local governments of the mandate for unemployment insurance coverage ($42,000,000);
- Addressing the cost of service credit awarded STRS retirants for unused sick leave ($18,000,000);
- Repayment of money redirected from the emergency telephone account in previous years ($54,300,000);
- Repayment of money redirected from the Off-Highway Vehicle Account in previous years ($14,500,000); and
- Restoration of funding reductions made by the Legislature in the budget of The Commission on the Status of Women ($119,000).

George Deukmejian

SECTION 1 00. This act shall be known and may be cited as the "Budget Act of 1985."

SEC 1 50. (a) In accordance with Section 13338 of the Government Code, as added by Chapter 1284, Statutes of 1978 (AB 3322), and as amended by Chapter 1286, Statutes of 1984 (AB 3372), it is the intent of the Legislature that this act utilize a coding scheme compatible with the Governor's Budget and the records of the State Controller, and provide for the appropriation of federal funds received by the state and deposited in the State Treasury.

(b) Essentially, the format and style are as follows:

(1) Appropriation item numbers have a code which is common to all the state's fiscal systems. The meaning of this common coded item number is as follows.

2720—Organization Code (this code represents the California Highway Patrol)
001—Reference Code (first appropriation for a particular fund for support of each department)
044—Fund Code (Motor Vehicle Account, State Transportation Fund)

(2) Appropriation items are organized in organization code order as reflected in the Governor's Budget.

(3) All the appropriation items, reappropriation items and reversion items, if any, for each department or entity have been brought together and are adjacent to one

another.

(4) Federal funds received by the state and deposited in the State Treasury are appropriated in separate items.

(c) The Department of Finance may authorize revisions to the codes used in this act in order to provide compatibility between the codes used in this act and those used in the Governor's Budget and in the records of the State Controller.

(d) Notwithstanding any other provisions of this act, the Department of Finance may revise the schedule of any appropriation made in this act where such revision is of a technical nature and is consistent with legislative intent. Such revisions may include, but shall not be limited to, the substitution of category for program or program for category limitations, the proper categorization of allocated administration costs and cost recoveries, the distribution of any unallocated amounts within an appropriation and the adjustment of schedules to facilitate departmental accounting operations including the elimination of categories providing for amounts payable from other items or other appropriations and the distribution of unscheduled amounts to programs or categories. Such revisions shall include a certification that the revisions comply with the intent and limitation of expenditures as appropriated by the Legislature.

(e) Notwithstanding any other provision of this act, when the Department of Finance, pursuant to (d) above, approves the schedule or revision of any appropriation relating to the elimination of amounts payable, the language authorizing such transfer shall also be eliminated.

SEC. 2.00. The following sums of money, or so much thereof as may be necessary unless otherwise provided herein, are hereby appropriated for the use and support of the State of California for the 1985–86 fiscal year beginning July 1, 1985, and ending June 30, 1986. Appropriations for Capital Outlay, unless otherwise provided herein, shall be available for expenditure during the 1985–86, 1986–87 and 1987–88 fiscal years, except that appropriations for studies, planning, and working drawings, and minor capital outlay shall, except as provided herein, be available for expenditure only during the 1985–86 fiscal year In addition, every appropriation made in this act for construction, or working drawings and construction, that has not been allocated, through fund transfer or approval to proceed to bid, by the Director of Finance on or before June 30, 1986, shall, except as provided herein, revert as of that date to the fund from which the appropriation was made. All such appropriations, unless otherwise herein provided, shall be paid out of the General Fund in the State Treasury

Whenever by constitutional or statutory provision the revenues or receipts of any institution, department, board, bureau, commission, officer, employee, or other agency, or any moneys in any special fund created by law therefor, are to be used for salaries, support or any proper purpose, expenditures shall be made therefrom for any such purposes, to the extent only of the amount herein appropriated, unless otherwise stated herein, or authorized pursuant to Section 11006 of the Government Code

Appropriations for purposes not otherwise provided for herein which have been heretofore made by any existing constitutional or statutory provision shall continue to be governed thereby.

LEGISLATIVE/JUDICIAL/EXECUTIVE

Legislative

Item		Amount
0110-001-001—For support of Senate		$49,076,000
Schedule:		
(a) 101001-Salaries of Senators	1,458,000	
(b) 317295-Mileage	3,000	
(c) 317292-Expenses	550,000	
(d) 500000-Contingent Expenses	40,194,000	
(e) 317296-Automotive Expenses	498,000	
(f) Joint Expenses	6,373,000	

Provisions:

1. The funds appropriated in Schedule (d) are for contingent expenses of the Senate, including personal services for officers, clerks and all other employees, and legislative committees thereof composed in whole or in part of Members of the Senate, and for support of joint services and joint house operations as provided in Part 2 (commencing with Section 10200) of Division 2 of Title 2 of the Government Code, to be transferred by the State Controller to the Senate Contingent Fund.
2. The funds appropriated in Schedule (e) are for contingent expenses of the Senate relating to the lease, maintenance, repair, insurance, and other costs of operating automobiles for the use of Members of the Senate, to be transferred by the State Controller to the Senate Contingent Fund.
3. The funds appropriated in Schedule (f) may be transferred in support of Item 0160-001-001 by resolution of the Senate Rules Committee or by resolution of the Senate.
4. The funds appropriated in Schedule (f) may be transferred for support of joint services and joint house operations provided for in Article 7 (commencing with Section 9140) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code which are funded under Item 0130-021-001 by resolution of the Senate Rules Committee or by resolution of the Senate.
5. The funds appropriated by Schedules (a), (b), (c), (e) and (f) shall be transferred by the State Controller to the Senate Contingent Fund upon approval of a resolution of the Senate Rules Committee or by resolution of the Senate requesting such a transfer.

0120-011-001—For support of Assembly		76,456,000
Schedule:		
(a) 101001-Salaries of Assemblymen	2,906,000	
(b) 317295-Mileage	6,000	
(c) 317292-Expenses	1,104,000	
(d) 500000-Contingent Expenses	50,413,000	

Item Amount

(e) 317296-Automotive Expenses 1,064,000
(f) Joint Expenses..... 20,963,000

Provisions:

1. The funds appropriated in Schedule (d) are for contingent expenses of the Assembly including personal services for officers, clerks and all other employees, and legislative committees thereof composed in whole or in part of Members of the Assembly, and for support of joint services and joint house operations as provided in Part 2 (commencing with Section 10200) of Division 2 of Title 2 of the Government Code, to be transferred by the State Controller to the Assembly Contingent Fund.
2. The funds appropriated in Schedule (e) are for contingent expenses of the Assembly relating to the lease, maintenance, repair, insurance, and other costs of operating automobiles for the use of Members of the Assembly, to be transferred by the State Controller to the Assembly Contingent Fund.
3. The funds appropriated in Schedule (f) may be transferred in support of Item 0160-001-001 by resolution of the Assembly Rules Committee or by resolution of the Assembly.
4. The funds appropriated in Schedule (f) may be transferred for support of joint services and joint house operations provided for in Article 7 (commencing with Section 9140) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code which are funded under Item 0130-021-001 by resolution of the Assembly Rules Committee or by resolution of the Assembly.
5. The funds appropriated by Schedules (a), (b), (c), (e) and (f) shall be transferred by the State Controller to the Assembly Contingent Fund upon approval of a resolution of the Assembly Rules Committee or by resolution of the Assembly requesting such a transfer.

0130-021-001—For support of joint expenses of the Legislature..... 0

Schedule:

(a) 317292-Expenses of Joint Committees 5,325,000
(b) Reimbursements ..... −5,325,000

Provisions:

1. The funds appropriated in category (a) are for the expenses of joint committees and their members and for any charges, expenses, or claims they may incur, available without regard to fiscal years, to be paid on certification of chairpersons of the committees to which allocations have been made by statute or concurrent resolution or by resolution of the Joint Rules Committee.

Item Amount

2. Funds shown in category (b) may be transferred from the Assembly Contingent Fund, by resolution of the Assembly or resolution of the Assembly Rules Committee, and the Senate Contingent Fund, by resolution of the Senate or resolution of the Senate Rules Committee.

0155-001-001—For support of Auditor General, for transfer to Auditor General Fund 8,154,000

Provisions:

1. Notwithstanding any provisions of Section 2.00 of this act, this appropriation shall be available for encumbrances without regard to fiscal year.
2. The Auditor General and his or her employees shall be deemed to be legislative employees for the purposes of Section 20364 of the Government Code.

0155-001-127—For support of the Auditor General, payable from the Auditor General Fund ..... −8,154,000

Schedule:

(a) Reimbursements ..... −8,154,000

0160-001-001—For support of Legislative Counsel Bureau 12,370,000

Schedule:

(a) Support 23,251,000
(b) Reimbursements ..... −131,000
(c) Reimbursements from Assembly Contingent Fund ..... −10,750,000

Provisions:

1. The funds in category (c) are in addition to any other funds which may be made available and may be transferred from the Assembly Contingent Fund, by resolution of the Assembly or resolution of the Assembly Rules Committee.

Judicial

0250-001-001—For support of Judiciary 68,310,939

Schedule:

(a) 10-Supreme Court 7,968,153
(b) 20-Courts of Appeal 46,709,330
(c) 30-Judicial Council 13,356,456
(d) 40-Commission on Judicial Performance 337,000
(e) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 0250-001-044) .. −60,000

Provisions:

1. Notwithstanding Section 6.50 of this act, the funds appropriated or scheduled in this item may be allocated or reallocated among categories by order of the Judicial Council; however, any allocation or reallocation by the Judicial Council shall be reported to the Director of Finance.

Item		Amount
2. Of the amount appropriated in Schedule (b), $135,439 shall be available for expenditure only for one administrative assistant position in each district in the First, Third, Fifth, and Sixth Districts of the Court of Appeal.		
3. Of the amount appropriated in Schedule (b), $161,792 shall be available for expenditure for 2.5 attorney positions limited to June 30, 1986, to be assigned to the First Appellate District to reduce the case backlog.		
0250-001-044—For support of Judiciary, for transfer to Item 0250-001-001, payable from the Motor Vehicle Account, State Transportation Fund		60,000
0250-101-001—For reimbursement of any county, in whose superior court a judge of the municipal court of another county is assigned to sit and which is required by subdivision (b) of Section 68540 of the Government Code to reimburse the other county from which such assignment is made, of the cost of the regular salary of a municipal court judge (as specified in subdivision (b) of Section 68202 and in Section 68203 of the Government Code) for that period of time while serving on assignment in its superior court; and for payment to any county, in whose superior court a judge of its municipal court is assigned to sit, of the cost of the regular salary of a municipal court judge (as specified in subdivision (b) of Section 68202 and in Section 68203 of the Government Code) for that period of time while serving on assignment in its superior court; and for payment to any county of the cost of the regular salary of a municipal court judge (as specified in subdivision (b) of Section 68202 and in Section 68203 of the Government Code) for that period of time its municipal court judge serves on assignment on an appellate court; and for payment to any county of the transportation expenses of a judge assigned to sit on a municipal court to replace an absent municipal court judge who has been assigned to sit on a superior court or an appellate court, Program 30, Judicial Council, for payment by the State Controller		243,000
0250-301-036—For Capital Outlay, Judiciary, payable from the Special Account for Capital Outlay		6,120,000
Schedule:		
(1) 03.30.010—San Francisco State Building—Remodel Facilities—Working Drawings and Construction	4,618,000	
(2) 03.83.010—Orange County Courthouse—Remodel Facilities—Construction	1,502,000	
0390-001-001—For support, for transfer by the State Controller to the Judges' Retirement Fund, for Supreme Court and appellate court judges		1,174,000
Provisions:		

Item Amount

1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between Item 0390-001-001 and Item 0390-101-001.

0390-101-001—For local assistance, for transfer by the State Controller to the Judges' Retirement Fund for superior court and municipal court judges 13,907,000

Provisions:

1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between Item 0390-001-001 and Item 0390-101-001.

0420-101-001—For local assistance, for state's share of salaries and health and dental benefits of judges of superior courts as provided by Section 68206 of the Government Code 44,591,181

Schedule:

(a) State share and advances per Section 68206.5 of the Government Code 45,749,181

(b) Reimbursements ..... −1,158,000

Provisions:

1. Any funds which are unexpended due to vacancies in judgeships may be expended by the Judicial Council as follows:

   (a) For extra compensation, expenses, and staff for judges assigned by the Chairperson of the Judicial Council, except that no funds shall be expended under this provision until the Judicial Council notifies the State Controller that it has expended at least $525,000 for extra compensation, expenses, and staff for assigned judges from Item 0250-001-001.

   (b) For expenses of judges assigned by the Chairperson of the Judicial Council, other necessary judicial officers and employees, and facilities in coordination proceedings under Code of Civil Procedure Section 404.8.

0440-101-001—For local assistance, for payment to counties for disbursement as a $60,000 block grant for each of the superior court judgeships created by statutes enacted since January 1, 1973 11,280,000

Provisions:

1. None of the funds appropriated by this item shall be disbursed as block grants for the 10 judgeships established by Chapter 1311, Statutes of 1974; the four judgeships established by Chapter 748, Statutes of 1981; one of the three judgeships established by Chapter 498, Statutes of 1982; the three judgeships established by Chapter 1574, Statutes of 1982; the three judgeships established by Chapter 1575, Statutes of 1982; and the judgeship established by Chapter 1576, Statutes of 1982.

Item		Amount
0460-001-001—For support, for state's share of cost for membership in National Center for State Courts, Judicial Council of California		50,000

Executive

0500-001-001—For support of Governor and of Governor's office		5,170,000
Schedule:		
(a) Support	5,115,000	
(b) Governor's Residence (Support)	25,000	
(c) Special Contingent Expenses	30,000	
Provisions:		
1. This appropriation is exempt from the provisions of Sections 925.6, 12410, and 13320 of the Government Code.		
0510-001-001—For support of Secretary for State and Consumer Services		660,000
Schedule:		
(a) Support	680,000	
(b) Reimbursements	−20,000	
0520-001-001—For support of Secretary for Business, Transportation and Housing, for transfer to Item 0520-001-044		354,000
0520-001-044—For support of Secretary for Business, Transportation and Housing, payable from the Motor Vehicle Account, State Transportation Fund		589,000
Schedule:		
(a) 10-Administration of Business, Transportation and Housing Agency	1,334,000	
(b) Reimbursements	−391,000	
(c) Amount payable from the General Fund (Item 0520-001-001)	−354,000	
0530-001-001—For support of Secretary for Health and Welfare		1,356,000
Schedule:		
(a) Support	1,660,000	
(b) Reimbursements	−304,000	
0540-001-001—For support of Secretary for Resources		1,159,000
Schedule:		
(a) 10-Administration of Resources Agency	1,306,000	
(b) Reimbursements	−22,000	
(c) Amount payable from the California Environmental License Plate Fund (Item 0540-001-140)	−125,000	
0540-001-140—For support of Secretary for Resources, for transfer to Item 0540-001-001, payable from the California Environmental License Plate Fund		125,000
0550-001-001—For support of Secretary for Youth and Adult Correctional Agency, Program 10—Correctional Programs		814,000
0580-001-001—For support of Office of California/Mexico Affairs		240,000

Item		Amount
Schedule:		
(a) 100000-Personal Services	165,000	
(b) 300000-Operating Expenses and Equipment	75,000	
0585-001-001—For transfer by the State Controller from the General Fund to the California State World Trade Commission Fund for support of the California State World Trade Commission		933,000
0585-001-981—For support of the California State World Trade Commission, payable from the California State World Trade Commission Fund		1,088,000
Schedule:		
(a) 100000-Personal Services	424,000	
(b) 300000-Operating Expenses and Equipment	664,000	
0630-495—Reversion, Governor's Office of Special Health Care Negotiations. As of June 30, 1985, the unencumbered balance of the appropriation provided in Chapter 328, Statutes of 1982, shall revert to the unappropriated surplus of the General Fund. The amount reverted pursuant to this item is hereby reappropriated for transfer by the Controller to the California Medical Assistance Commission for the purpose of establishing a pilot capitated health program to provide educational and technical assistance to disproportionate health provider physicians and surgeons.		
0650-001-001—For support of Office of Planning and Research		3,503,000
Schedule:		
(a) 11-State Planning and Policy Development	4,107,000	
(b) Reimbursements	−104,000	
(c) Amount payable from the Federal Trust Fund (Item 0650-001-890)	−500,000	
0650-001-890—For support, Office of Planning and Research, for transfer to Item 0650-001-001, payable from the Federal Trust Fund		500,000
Provisions:		
1. An amount equal to a maximum of 20 percent of Item 0650-101-890 may be transferred between Item 0650-101-890 and Item 0650-001-890 in order to adjust these appropriations to conform to the federal grant award.		
0650-101-890—For local assistance, Office of Planning and Research, Program 11.35, California Energy Extension Service, payable from the Federal Trust Fund		125,000
Provisions:		
1. An amount equal to a maximum of 20 percent of Item 0650-101-890 may be transferred between this item and Item 0650-001-890 in order to adjust these appropriations to conform to the federal grant award.		
0660-001-001—For support of Office of Economic Opportunity, for transfer to Item 0660-001-890		80,000

Item	Amount
0660-001-890—For support of Office of Economic Opportunity, payable from the Federal Trust Fund..	8,101,000

Schedule:

(a) 100000-Personal Services	5,076,000
(b) 300000-Operating Expenses and Equipment	3,105,000
(c) Amount payable from the General Fund (Item 0660-001-001)	−80,000

Provisions:

1. On a federal fiscal year basis, the office shall make the following program allocations for the community services block grant, as a percentage of the total block grant:
   (a) Administration ..... 5 percent
   (b) Discretionary funds ..... 5 percent
   The office shall provide the State Controller with the dollar value of these allocation limits, as they relate to the appropriation in this item, at the beginning of the state fiscal year, and shall update this information whenever necessary to reflect federal revisions to the grant.
2. Notwithstanding Section 16367.5(b) of the Government Code, the office may expend $6,169,000 of the LIHEAP block grant for state administrative costs, adjusted for any allocations made by the Department of Finance for employee compensation and price increases. Any other proposed increase to LIHEAP state administrative costs for the 1985–86 state fiscal year, even if based on a higher, revised grant level and within the 5 percent allowed by Section 16367.5(b), shall be approved pursuant to Section 28 of this act and in no event shall result in the office's state administrative costs for LIHEAP exceeding 7.5 percent of the total LIHEAP grant.
3. The report required under Section 12783 of the Government Code from the Office of Economic Opportunity to the Legislature shall include, but not be limited to, for 1985–86, statistical and procedural information on the status of all applications filed with the Office of Economic Opportunity for the Low Income Home Energy Assistance Program's cash payment program including: (a) the timely distribution of direct payments to eligible applicants, (b) incomplete applications, (c) denied applications, (d) appealed applications, and (e) the issuance or reissuance of single-party warrants.
4. The department shall evaluate the level of services being provided by the existing Migrant and Seasonal Farmworkers (MSFW) contractors in order to ensure that these services are provided on an equitable local basis throughout the state. The department shall correct any identified areas of inequitable distribution of MSFW serv-

Item Amount

ices. Program services shall be provided to local communities either through direct contractors or through subcontractors with local agencies.

0660-011-890—For support of Office of Economic Opportunity, to be transferred to the Social Welfare Federal Fund, payable from the Federal Trust Fund ..... (9,805,000)

0660-101-890—For local assistance, Office of Economic Opportunity for assistance to individuals and payments to service providers, payable from the Federal Trust Fund 116,954,000

Schedule:

(a) 20-Energy Programs 87,071,000

(b) 40-Community Services 29,883,000

Provisions:

1. On a federal fiscal year basis, the office shall make the following program allocations for the community services block grant as a percentage of the total block grant:
   (a) Migrant and seasonal farm workers ..... 10 percent
   (b) Native American Indian programs 3.9 percent
   (c) Community action agencies and community services ..... 76.1 percent
   All grantees under the community services block grant program shall be subject to standard state contracting procedures required under the program.
2. The office shall provide the State Controller with the dollar value of these allocation limits, as they relate to the appropriation in this item, at the beginning of the state fiscal year, and shall update this information whenever necessary to reflect federal revisions to the grant.
3. In order to support any new community action agency (CAA), the OEO may transfer from the allocation for areas without CAAs a share of funds that is equal to the proportion of low-income individuals living in the new CAA area compared to the low-income population in all areas without a CAA.
4. If the OEO proposes to contract for services which are in the nature of economic development and job training or job creation, as part of the discretionary community service block grant funds, the OEO shall coordinate these efforts with the Employment Development Department, the Job Training Coordination Council, and the Department of Commerce. The coordination shall involve as a minimum the opportunity to review and comment by these entities on any RFPs or criteria by which respondents to these RFPs are evaluated.

0690-001-001—For support of Office of Emergency Services, California Emergency Council and Advisory Committees 8,250,000

Schedule:

Item		Amount
(a)	100000-Personal Services	6,791,000
(b)	300000-Operating Expenses and Equipment	6,047,000
(c)	Reimbursements	−279,000
(d)	Amount payable from the Nuclear Planning Assessment Special Account (Item 0690-001-029)	−300,000
(e)	Amount payable from the Federal Trust Fund (Item 0690-001-890)	−4,009,000

Provisions:

1. Funds appropriated by this item may be reduced by the Director of Finance, after giving notice to the Chairman of the Joint Legislative Budget Committee, by the amount of federal funds made available for the purposes of this item in excess of the federal funds scheduled in Item 0690-001-890.
2. The office shall charge tuition for all training offered through the California Training Institute.
3. The $375,000 appropriated in this item for support of the Southern California Earthquake Preparedness Project shall be available for expenditure regardless of the availability of federal matching funds. The Office of Emergency Services shall seek federal matching funds for this project.

0690-001-029—For support of Office of Emergency Services, California Emergency Council and Advisory Committee, for transfer to Item 0690-001-001, payable from the Nuclear Planning Assessment Special Account 300,000

0690-001-890—For support of Office of Emergency Services, California Emergency Council and Advisory Committee, for transfer to Item 0690-001-001, payable from the Federal Trust Fund 4,009,000

Provisions:

1. No funds, either state or federal, shall be expended by any state agency for developing or implementing "crisis relocation planning," or for any planning whose primary or exclusive purpose is to effect a mass evacuation of California's civilian population, in the event of the threat of a nuclear war.

   If, as a result of this section, the Federal Emergency Management Agency (FEMA) withholds other federal funds whose purposes are the support of California's emergency planning and preparedness for civilian and natural disasters, and if the court of original jurisdiction upholds the legality of such action by FEMA, then the implementation of this section shall be suspended until judicial appeals have been exhausted or Congress prohibits this action by FEMA.

0690-101-029—For local assistance, Office of Emergency Services, Program 30—Fixed Nuclear Powerplant Planning, payable from the Nuclear Planning Assessment Special Account 600,000

Item		Amount
0690-101-890—For local assistance, Office of Emergency Services Program 10—Emergency Mutual Aid Services, payable from the Federal Trust Fund....		38,013,000
Provisions:		
1. The funds appropriated by this item are exempt from Section 28 of this act.		
0690-495—Reversion, Office of Emergency Services. As of June 30, 1985, the unencumbered balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the fund from which the appropriation was made.		
042—State Highway Account—State Transportation Fund		
(1) Chapter 1064, Statutes of 1983.		
0750-001-001—For support of Office of the Lieutenant Governor		1,326,000
Schedule:		
(a) 100000-Personal Services	918,000	
(b) 300000-Operating Expenses and Equipment	471,000	
(c) Reimbursements	−63,000	
0820-001-001—For support of Department of Justice....		121,479,572
Schedule:		
(a) 11.01-Executive-Administration	37,255,000	
(b) 11.02-Distributed Executive-Administration	−37,255,000	
(c) 20-Special Programs	5,464,000	
(d) 30-Civil Law	24,674,000	
(e) 40-Criminal Law	31,486,000	
(f) 45-Public Rights	16,417,000	
(g) 50-Law Enforcement	97,187,572	
(h) Reimbursements	−23,851,000	
(i) Amount payable from the Attorney General's Antitrust Account, General Fund (Item 0820-001-012)	−403,000	
(j) Amount payable from the Hazardous Waste Control Account (Item 0820-001-014)	−335,000	
(k) Amount payable from the Fingerprint Fees Account, General Fund (Item 0820-001-017)	−7,908,000	
(*l*) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 0820-001-044)	−12,628,000	
(m) Amount payable from the Hazardous Substance Account (Item 0820-001-455)	−432,000	
(n) Amount payable from the Dealers' Record of Sale Special Account, General Fund (Item 0820-001-460)	−809,000	
(nn) Amount payable from the Narcotics Assistance and Relinquishment by Criminal Offender Fund (NARCO) (Item 0820-001-469)	−443,000	

Item		Amount
(o) Amount payable from the Gaming Registration Fund (Item 0820-001-477)		−435,000
(p) Amount payable from the Federal Trust Fund (Item 0820-001-890)		−6,505,000

Provisions:

1. The Attorney General shall submit to the Legislature, the Department of Finance and the Governor the quarterly and annual reports which he or she submits to the federal government on the activities of the Medi-Cal Fraud Unit.
2. Notwithstanding any other provision of law, the Department of Justice may purchase vehicles of any type or class, which in the judgment of the Attorney General or his or her designee are necessary to the performance of the investigatory and enforcement responsibilities of the Department of Justice, from the funds appropriated for that purpose in this item.
3. Any funds received by the Department of Justice as reimbursements for legal services provided by the Civil Law Program in excess of $14,054,000, and by the Public Rights Program in excess of $2,518,000, plus amounts for employee compensation adjustments, shall revert to the unappropriated surplus of the General Fund unless the Director of Finance authorizes the expenditure of the reimbursements and notification of the additional expenditure authority is provided to the Legislature pursuant to Section 28.00.

0820-001-012—For support of Department of Justice, for transfer to Item 0820-001-001, payable from the Attorney General's Antitrust Account, General Fund 403,000

Provisions:

1. The first $600,000 in revenues in the Attorney General's Antitrust Account within the Department of Justice shall be transferred to the General Fund.

0820-001-014—For support of Department of Justice, for transfer to Item 0820-001-001, payable from the Hazardous Waste Control Account 335,000

0820-001-017—For support of Department of Justice, for transfer to Item 0820-001-001, payable from the Fingerprint Fees Account, General Fund, pursuant to subdivision (e) of Section 11105 of the Penal Code 7,908,000

0820-001-044—For support of Department of Justice, for transfer to Item 0820-001-001, payable from the Motor Vehicle Account, State Transportation Fund 12,628,000

0820-001-455—For support of the Department of Justice, for transfer to Item 0820-001-001, payable from the Hazardous Substance Account 432,000

0820-001-460—For support of Department of Justice, for transfer to Item 0820-001-001, payable from the Dealers' Record of Sale Special Account, General Fund 809,000

Item		Amount
0820-001-469—For support of Department of Justice, for transfer to Item 0820-001-001, payable from the Narcotics Assistance and Relinquishment by Criminal Offender Fund (NARCO)		443,000
0820-001-477—For support of Department of Justice, for transfer to Item 0820-001-001, payable from the Gaming Registration Fund		435,000
Provisions:		
1. The funds appropriated by this item shall not be available for encumbrance in excess of the sum of the revenues deposited, and the revenues which can reasonably be estimated to be deposited, in the Gaming Registration Fund for the 1985–1986 fiscal year, subject to certification by the Department of Finance.		
0820-001-890—For support of Department of Justice for transfer to Item 0820-001-001, payable from the Federal Trust Fund		6,505,000
0820-101-469—For Local Assistance, Department of Justice, payable from the Narcotics Assistance and Relinquishment by Criminal Offender Fund (NARCO)		500,000
Provisions:		
1. The funds appropriated by this item shall not be available for encumbrance in excess of the sum of the revenues deposited, and until sufficient revenues have been deposited and are reserved for the appropriation made by Item 0820-001-469 and for repayment of any outstanding loans.		
0820-301-036—For minor capital outlay (80.10.010), Department of Justice, payable from the Special Account for Capital Outlay		267,000
0840-001-001—For support of State Controller		50,272,000
Schedule:		
(a) 100000-Personal Services	41,418,000	
(b) 300000-Operating Expenses and Equipment	25,130,000	
(c) Refunds of Taxes, Licenses and other Fees	30,000	
(d) Reimbursements	−11,947,000	
(e) Amount payable from the Aeronautics Account, State Transportation Fund (Item 0840-001-041)	−249,000	
(f) Amount payable from the Motor Vehicle Fuel Account, Transportation Tax Fund (Item 0840-001-061)	−2,388,000	
(g) Amount payable from the State School Building Aid Fund (Item 0840-001-739)	−330,000	
(h) Amount payable from the Federal Trust Fund (Item 0840-001-890)	−1,126,000	
(i) Amount payable from the Assessment Fund (Item 0840-001-903)	−123,000	

Item		Amount
(j)	Amount payable from nongovernmental cost funds, Retail Sales Tax Fund (Item 0840-001-988)	−143,000

Provisions:

1. The appropriation made by this item shall be in lieu of any allocation made pursuant to subdivision (b) of Section 30462 of the Revenue and Taxation Code during the 1985–86 fiscal year and no funds shall be allocated to the State Controller pursuant to Section 30462 during the 1985–86 fiscal year.
2. The funds appropriated in Schedule (c) are for refunding of payments of taxes, licenses, fees and other receipts which have been erroneously collected and deposited in the General Fund for the refund of which no other provision is made by law, for refunding of amounts withheld and deposited in a fund in the State Treasury to any person who is determined to be liable to a taxpayer by reason of withholding and transmitting payments of taxes, interest, and penalties for the refund of which no other provision is made by law, and for payment of prior judgments, liens or encumbrances pursuant to Section 12516 of the Government Code; provided further, that expenditures made under Schedule (c) of this item shall be charged to the year in which the warrant is issued by the State Controller.
3. The appropriation made by this item shall be in lieu of the appropriation in Section 1564 of the Code of Civil Procedure for all costs, expenses, or obligations connected with the administration of the Unclaimed Property Law, with the exception of payment of owners' or holders' claims pursuant to Section 1540, 1542, 1560, or 1561 of that code.
4. To the extent that federal funds are received by the State Controller for audits in categories (a) and (b) covered by the joint cooperative audit agreement between the United States Department of the Interior Mineral Management Services Division and the State Controller's office, pursuant to the terms of the 1982 Mineral Act, exceed $335,000, these excess federal funds shall be utilized to reduce the General Fund participation in this program.

   General Fund moneys which are not needed because of the use of these federal funds shall be unallotted by the Department of Finance.
5. The Controller shall consolidate all Inheritance and Gift Tax administration activities in the Sacramento office as of June 30, 1985. A small cadre of staff, not to exceed seven positions, may be maintained in Los Angeles during the 1985–86 fiscal year to effect collection of remaining inheritance and gift taxes still owing to the state. As of July 1, 1986, this cadre shall not exceed five

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positions and, as of July 1, 1987, this cadre shall not exceed three positions.		
0840-001-041—For support of State Controller, to be transferred to Item 0840-001-001, payable from the Aeronautics Account, State Transportation Fund..		249,000
0840-001-061—For support of State Controller, to be transferred to Item 0840-001-001, payable from the Motor Vehicle Fuel Account, Transportation Tax Fund		2,388,000
0840-001-739—For support of State Controller, to be transferred to Item 0840-001-001, payable from the State School Building Aid Fund		330,000
0840-001-890—For support of State Controller, to be transferred to Item 0840-001-001, payable from the Federal Trust Fund		1,126,000
0840-001-903—For support of State Controller, to be transferred to Item 0840-001-001, payable from the Assessment Fund		123,000
0840-001-988—For support of State Controller, to be transferred to Item 0840-001-001, payable from nongovernmental cost funds (Retail Sales Tax Fund)		143,000
0850-001-562—For support of the State Lottery Commission		141,176,500
Provisions:		
1. The amount appropriated in this item shall be in lieu of the amount provided by Government Code Section 8880.61 for purposes of expenses of the lottery, as defined in Government Code Section 8880.64. The Director of Finance, not sooner than 30 days after notification is delivered to the Chairman of the Joint Legislative Budget Committee, may augment the appropriation contained in this item in order to reflect higher-than-anticipated lottery revenues.		
0860-001-001—For support of State Board of Equalization		86,394,000
Schedule:		
(a) 100000-Personal Services	96,392,000	
(b) 300000-Operating Expenses and Equipment	27,343,000	
(bx) 300001-Consolidation of office space	4,568,000	
(c) Reimbursements	−34,235,000	
(d) Amount payable from the State Emergency Telephone Number Special Account, General Fund (Item 0860-001-022)	−91,000	
(e) Amount payable from the Motor Vehicle Fuel Account, Transportation Tax Fund (Item 0860-001-061)	−4,183,000	
(f) Amount payable from the Motor Vehicle License Fee Account, Transportation Tax Fund (Item 0860-001-064)	−1,292,000	

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(g) Amount payable from the Universal Telephone Service Fund (Item 0860-001-415) ..... —100,000

(h) Amount payable from the Energy Resources Programs Account, General Fund (Item 0860-001-465) —69,000

(i) Amount payable from the Timber Tax Fund (Item 0860-001-965) ..... —1,939,000

Provisions:

1. The State Board of Equalization shall use the effectiveness criterion of net assessments per dollar of cost for the purpose of audit selection and resource allocation processes and in reporting accomplishments to the Legislature. The board may use other criteria in evaluating the effectiveness of other aspects of the audit program. The board shall select audits and allocate audit resources solely on the basis of incremental or marginal net assessments expected to be produced. Nothing in this proviso shall require the board to individually rank each audit eligible account against all other eligible accounts or preclude the board from selecting audits for training purposes, or from allocating audit staff to verify claims for refund or to meet necessary management information needs.
2. The $1,292,000 appropriated from the Motor Vehicle License Fee Account, Transportation Tax Fund, shall be allocated as follows:
   (a) $1,171,000 for funding 50 percent of the direct cost of County Surveys activity.
   (b) $121,000 for funding 50 percent of the direct cost of the Legal Entity Ownership activity.
   The State Controller shall deduct the amount appropriated in Item 0860-001-064 from the amount allocated to cities and counties pursuant to Section 11005 of the Revenue and Taxation Code.
3. The Director of Finance shall reduce the amount appropriated by this item by the amount of total charges levied pursuant to Section 7204.3 of the Revenue and Taxation Code which exceeds $22,641,000 and the amount of total charges levied pursuant to Section 7273 of the Revenue and Taxation Code which exceeds $8,678,000.
4. Of the amount appropriated in category (b), not more than $3,100,000 may be expended for the first-year cost of the computer replacement project. The Department of Finance shall provide written notification of its intention to approve a contract for the procurement of the replacement of computer equipment to the Chairperson of the Joint Legislative Budget Committee not sooner than 30 days before approval of the contract, or not sooner than whatever lesser time the Chairperson of the Joint

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Legislative Budget Committee, or his or her designee, may determine.		
0860-001-022—For support of State Board of Equalization, for transfer to Item 0860-001-001, payable from the State Emergency Telephone Number Special Account, General Fund		91,000
0860-001-061—For support of State Board of Equalization, for transfer to Item 0860-001-001, payable from the Motor Vehicle Fuel Account, Transportation Tax Fund		4,183,000
0860-001-064—For support of State Board of Equalization, for transfer to Item 0860-001-001, payable from the Motor Vehicle License Fee Account, Transportation Tax Fund		1,292,000
0860-001-415—For support of State Board of Equalization, for transfer to Item 0860-001-001, payable from the Universal Telephone Service Fund		100,000
0860-001-465—For support of State Board of Equalization, for transfer to Item 0860-001-001, payable from the Energy Resources Programs Account, General Fund		69,000
0860-001-965—For support of State Board of Equalization, for transfer to Item 0860-001-001, payable from the Timber Tax Fund		1,939,000
0860-301-036—For minor capital outlay (99.10.001), Board of Equalization, payable from the Special Account for Capital Outlay		140,000
Provisions:		
1. Of the funds appropriated by this item, $67,000 shall not be available for encumbrance if funds are provided in category (bx) of Item 0860-001-001 for consolidation of office space.		
0890-001-001—For support of Secretary of State		16,814,000
Schedule:		
(a) 100000-Personal Services	9,523,000	
(b) 300000-Operating Expenses and Equipment	5,180,000	
(c) Special Item of Expense Ballot Pamphlet Printing	1,307,000	
(d) Special Item of Expense Ballot Pamphlet Mailing	1,008,000	
(e) Special Item of Expense Printing, Voter Registration by Mail	433,000	
(f) Special Item of Expense Postage, Voter Registration by Mail	998,000	
(g) Reimbursements	−1,635,000	
Provisions:		
1. No funds appropriated in this item shall be expended by the Secretary of State to automate the corporate filing program unless and until: (1) The Office of Information Technology has approved the feasibility study report of the Secretary of State; and (2) 30-day advance notice of these planned expenditures has been submitted		

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to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the legislative fiscal committees.		
0950-001-001—For support of State Treasurer		4,520,000
Schedule:		
(a) 100000-Personal Services	5,460,000	
(b) 300000-Operating Expenses and Equipment	1,874,000	
(c) Reimbursements	−2,814,000	
0956-001-171—For support of California Debt Advisory Commission, payable from the California Debt Advisory Commission Fund		766,000
Schedule:		
(a) 100000-Personal Services	414,000	
(b) 300000-Operating Expenses and Equipment	352,000	
0959-001-001—For support of the California Debt Limit Allocation Committee		121,000
Schedule:		
(a) 100000-Personal Services	79,000	
(b) 300000-Operating Expenses and Equipment	42,000	
0965-001-215—For support of California Industrial Development Financing Advisory Commission, payable from the Industrial Development Fund		305,000
0968-001-457—For support of California Mortgage Bond Allocation Committee, payable from the Mortgage Bond Allocation Fee Account, General Fund		15,000
0971-001-731—For support of California Alternative Energy Source Financing Authority, payable from the California Alternative Energy Authority Fund		135,000
0977-101-001—For local assistance, to be allocated by the Health Facilities Financing Authority for county hospital construction projects		10,000,000
Provisions:		
1. The funds appropriated in this item shall be available only if legislation is enacted into law which expands the state's external borrowing authority.		
2. The funds appropriated in this item shall be available for payment of interest on bonds sold for county hospital capital improvements.		
3. Such bonds will be guaranteed by the General Fund.		
4. It is the intent of the Legislature to provide this appropriation for these purposes annually in the Budget Act.		
0977-101-036—For local assistance, to be allocated by the Health Facilities Financing Authority for county hospital construction projects pursuant to Section 15463 of the Government Code		5,000,000

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Provisions:

1. The amount appropriated in this item shall be transferred to the County Health Services Sinking Fund or such other fund as may be created in place of the County Health Service Sinking Fund through legislation enacted into law.
2. The amount appropriated in this item shall be allocated by the Health Facilities Authority for acquisition of medical equipment by county hospitals.

STATE AND CONSUMER SERVICES

1100-001-001—For support of Museum of Science and Industry 7,613,000

Schedule:

(a) 100000-Personal Services	4,071,000
(b) 300000-Operating Expenses and Equipment	3,561,000
(c) Reimbursements	−19,000

Provisions:

1. The Director of General Services may not approve a contract, permit, or lease agreement by the museum (excluding those for museum exhibits), which reduces state revenues or increases state costs by $25,000 or more, unless, not sooner than 30 days prior to giving his or her approval, the director submits in writing to the Chairperson of the Joint Legislative Budget Committee notification of the director's intent to approve such contract, permit, or lease, or not sooner than such lesser time as the chairperson may in each instance determine.
2. The Executive Director of the Museum of Science and Industry, when acting in the capacity of the Executive Vice President of the Museum Foundation of Los Angeles, shall notify the Legislature of his or her intent to enter into contractual arrangements which involve the Museum of Science and Industry. The Executive Director shall provide the Legislature with copies of all such executed contracts.
3. Of the funds appropriated in this item, $318,000 shall be available only for the provision of 19 Exhibit Information Assistant (EIA) positions. The museum shall use, to the maximum extent possible, federal work-study funds to support the EIA positions and shall revert to the General Fund any savings achieved by participating in the Work-Study Program. The Museum of Science and Industry shall provide to the Chairperson of the Joint Legislative Budget Committee and the Chairperson of the fiscal committee of each house by December 1, 1985 (1) information on the feasibility of obtaining federal work-study funds to support the EIA positions, and (2)

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evidence that the method selected by the museum is the most cost-effective one.		
4. Of the amount appropriated in this item, $1,091,000 shall be made available to support the California Museum of Afro-American History and Culture.		
5. The Museum of Science and Industry shall not expend any of the $318,000 made available for Exhibit Information Assistants unless the Museum uses a competitive bidding process to enter into contract arrangements for the provision of EIA services.		
1110-401—Notwithstanding any other provision of law, no more than five percent of the amount allocated for enforcement in Items 1120-001-704 to 1600-084-780, inclusive, may be used for any other purpose sooner than 30 days after written notice of the necessity therefor to the Chairperson of the Joint Legislative Budget Committee.		
1120-001-704—For support of Board of Accountancy, payable from the Accountancy Fund		2,404,000
Schedule:		
(a) 3-Board of Accountancy	2,420,000	
(b) Reimbursements	−16,000	
1130-004-706—For support of California State Board of Architectural Examiners, payable from the California State Board of Architectural Examiners' Fund		1,587,000
Schedule:		
(a) 6-Board of Architectural Examiners	1,594,000	
(b) Reimbursements	−7,000	
1140-006-001—For support of State Athletic Commission, Program 9		604,000
Provisions:		
1. The sum of $9,522 is appropriated in this item exclusively for the purpose of repaying the interest owed to the General Fund on loans made to the Athletic Commission Fund.		
1150-008-128—For support of Bureau of Automotive Repair, Department of Consumer Affairs, payable from the Automotive Repair Fund		6,884,000
Schedule:		
(a) 12-Bureau of Automotive Repair	34,192,000	
(b) Reimbursements	−5,000	
(c) Amount payable from the Vehicle Inspection Fund (Item 1150-008-420)	−27,303,000	
1150-008-420—For support of Bureau of Automotive Repair, Department of Consumer Affairs, for transfer to Item 1150-008-128, payable from the Vehicle Inspection Fund		27,303,000
Provisions:		

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1. Any public awareness program funded by this item shall only be conducted in and for areas showing excessive noncompliance, complaints, or low public awareness of the biennial vehicle inspection program. No contract for any public awareness program may be entered into any sooner than 30 days after notification of the proposed contract has been provided to the Chairperson of the Joint Legislative Budget Committee.		
2. Effective May 1, 1986, the Bureau of Automotive Repair is directed to reduce the $6 fee for the Certificate of Compliance to $5. In order to determine whether a further reduction in the fee is appropriate, the bureau is also directed to submit to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee on December 1, 1985, the fund status and the projected surplus in the Vehicle Inspection Fund for each fiscal year through December 31, 1989.		
1160-010-713—For support of State Board of Barber Examiners, payable from the State Board of Barber Examiners' Fund		687,000
Schedule:		
(a) 15-State Board of Barber Examiners	690,000	
(b) Reimbursements	−3,000	
1170-012-773—For support of Board of Behavioral Science Examiners of the State of California, payable from the Behavioral Science Examiners Fund		764,000
Schedule:		
(a) 18-Board of Behavioral Science Examiners	781,000	
(b) Reimbursements	−17,000	
1180-014-717—For support of Cemetery Board, Program 21, payable from the Cemetery Fund		281,000
1200-016-157—For support of Bureau of Collection and Investigative Services, Department of Consumer Affairs, payable from the Collection Agency Fund		536,000
Schedule:		
(a) 24.10.010-Collection Agencies	558,000	
(b) 24.10.020-Distributed Collection Agencies	−18,000	
(c) Reimbursements	−4,000	
1210-018-769—For support of Bureau of Collection and Investigative Services, Department of Consumer Affairs, payable from the Private Investigator Fund		2,630,000
Schedule:		
(a) 24.20-Private Investigators	3,557,000	
(b) Reimbursements	−927,000	
1230-020-735—For support of Contractors' State License Board, payable from the Contractors' License Fund		17,862,000

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	Schedule:	
	(a) 30-Contractors' State License Board	17,907,000
	(b) Reimbursements	−45,000

Provisions:

1. No funds appropriated by this item may be expended for any services of the Attorney General which are in excess of the amounts budgeted therefor sooner than 30 days after written notification by the Department of Finance to the Chairperson of the Joint Legislative Budget Committee.
2. In expending funds appropriated pursuant to this item, the board shall give first priority to completing complaint mediation and investigation of all consumer complaints and complaints from industry sources. The board shall give second priority to investigation of applications at the level of 3 percent of all applications received by the board.

   No other complaints and investigations shall be processed if either of the following exists:
   (a) Consumer complaints are not mediated or investigated within a median time of 90 days of receipt by the board.
   (b) Application investigations are not completed within a median time of 90 days of receipt by the board.
3. The board shall report quarterly to the Joint Legislative Budget Committee all of the following:
   (a) The number of consumer complaints and application investigations.
   (b) The median time expended by the board in closing consumer complaints and application investigations.
   (c) The number of application and complaint investigations that exceed 90 days.
   (d) If other complaints have been mediated or investigated during the quarter and consumer complaints or application investigations are not being completed within a median time of 90 days, the board shall report the type and number of those cases, as well as the reasons for their priority treatment.
4. For purposes of Provisions 2 and 3:
   (a) "Consumer complaint" means a complaint which is directly received from the public.
   (b) "Completed mediation" means a complaint that is closed, or referred to formal investigation, by a consumer services representative.
   (c) "Completed investigation" means a complaint that has been investigated by a deputy registrar and is closed or awaiting formal disciplinary action.

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5. The $400,000 appropriated to the Contractor's State License Board to upgrade and expand its computer system shall not be encumbered by the board unless and until a feasibility study report has been prepared and approved by (1) the Task Force created to oversee the Department of Consumer Affairs department-wide computer project and (2) the Department of Finance. Of the $400,000, $100,000 shall be available to the board for preparation of a feasibility study report.

1240-022-738—For support of State Board of Cosmetology, payable from the Board of Cosmetology's Contingent Fund 2,664,000

Schedule:

(a) 33-State Board of Cosmetology 2,678,000

(b) Reimbursements ..... −14,000

1260-024-741—For support of Board of Dental Examiners of California, payable from the State Dentistry Fund 2,165,000

Schedule:

(a) 36.10.010-Board of Dental Examiners 2,181,000

(b) 36.10.020-Distributed Board of Dental Examiners ..... −5,000

(c) Reimbursements ..... −11,000

1270-026-380—For support of Board of Dental Examiners of California, payable from the Dental Auxiliary Fund 592,000

Schedule:

(a) 36-Board of Dental Examiners..... 595,000

(b) Reimbursements ..... −3,000

1280-028-325—For support of Bureau of Electronic and Appliance Repair, Department of Consumer Affairs, Program 39, payable from the Electronic and Appliance Repair Fund 1,069,000

1300-030-180—For support of Bureau of Employment Agencies, Department of Consumer Affairs, payable from the Bureau of Employment Agencies Fund 607,000

Schedule:

(a) 42.10.010-Employment Agencies .. 612,000

(b) 42.10.020-Distributed Employment Agencies ..... −5,000

1320-034-745—For support of State Board of Fabric Care, Program 45, payable from the Fabric Care Fund 905,000

Provisions:

1. Of the amount appropriated in this item, $453,000 shall be available to support the activities of the board from July 1 to December 31, 1985. The remaining $453,000 shall be available from January 1 to June 30, 1986, only if legislation abolishing the board is not enacted. If legislation abolishing the board is enacted, this amount

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shall revert to the Fabric Care Fund, and 10 authorized positions at the board shall be abolished.		
1330-036-750—For support of State Board of Funeral Directors and Embalmers, payable from the State Funeral Directors and Embalmers Fund		509,000
Schedule:		
(a) 48-State Board of Funeral Directors and Embalmers	512,000	
(b) Reimbursements	−3,000	
1340-038-205—For support of State Board of Registration for Geologists and Geophysicists, Program 51, payable from the Geology and Geophysics Fund		186,000
1350-040-001—For support of State Board of Guide Dogs for the Blind, Program 54		26,000
1360-042-752—For support of Bureau of Home Furnishings, Department of Consumer Affairs, Program 57, payable from the Bureau of Home Furnishings Fund		1,835,000
1370-044-757—For support of California State Board of Landscape Architects, Program 60, payable from the State Board of Landscape Architects Fund		257,000
1390-046-758—For support of Board of Medical Quality Assurance of the State of California, payable from the Contingent Fund of the Board of Medical Quality Assurance		13,247,000
Schedule:		
(a) 63.10.010-Board of Medical Quality Assurance	13,728,000	
(b) 63.15-Registered Dispensing Opticians	144,000	
(c) 63.10.020-Distributed Board of Medical Quality Assurance	−365,000	
(d) Reimbursements	−116,000	
(e) Amount payable from the Dispensing Optician's Fund (Item 1390-047-175)	−144,000	
1390-047-175—For support of Board of Medical Quality Assurance of the State of California, for transfer to Item 1390-046-758, payable from the Dispensing Optician's Fund		144,000
1400-048-108—For support of Board of Medical Quality Assurance of the State of California, payable from the Acupuncturists Fund		450,000
Schedule:		
(a) 63.20-Acupuncture Advisory Committee	456,000	
(b) Reimbursements	−6,000	
Provisions:		
(1) Of the funds appropriated in this item, $24,000 for one staff services analyst position shall only be expended provided that legislation for increasing the committee's revenue is enacted.		
1410-050-208—For support of Board of Medical Quality Assurance of the State of California, payable from the Hearing Aid Dispensers Fund		174,000

Item		Amount
Schedule:		
(a) 63.30-Hearing Aid Dispensers Examining Committee	178,000	
(b) Reimbursements	−4,000	
1420-052-759—For support of Board of Medical Quality Assurance of the State of California, payable from the Physical Therapy Fund		302,000
Schedule:		
(a) 63.40-Physical Therapy Examining Committee	316,000	
(b) Reimbursements	−14,000	
1430-054-280—For support of Board of Medical Quality Assurance of the State of California, payable from the Physician's Assistant Fund		285,000
Schedule:		
(a) 63.50-Physician's Assistant Examining Committee	288,000	
(b) Reimbursements	−3,000	
1440-056-295—For support of Board of Medical Quality Assurance of the State of California payable from the Podiatry Fund		579,000
Schedule:		
(a) 63.60-Podiatry Examining Committee	583,000	
(b) Reimbursements	−4,000	
Provisions:		
1. Of the funds appropriated in this item, $238,000 for enforcement activities shall be expended only provided that legislation increasing revenues to the Podiatry Fund is enacted.		
1450-058-310—For support of the Board of Medical Quality Assurance of the State of California, payable from the Psychology Fund		648,000
Schedule:		
(a) 63.70-Psychology Examining Committee	661,000	
(b) Reimbursements	−13,000	
1455-059-319—For support of Board of Medical Quality Assurance of the State of California, Program 63, payable from the Respiratory Care Fund		491,000
1460-060-376—For support of Board of Medical Quality Assurance of the State of California, payable from the Speech Pathology and Audiology Examining Committee Fund		187,000
Schedule:		
(a) 63.80.010-Speech Pathology and Audiology Committee	189,000	
(b) 63.80.020-Distributed Speech Pathology and Audiology Committee	−2,000	
1470-062-260—For support of State Board of Examiners of Nursing Home Administrators payable from the Nursing Home Administrator's State License Examining Board Fund		281,000

Item		Amount
Schedule:		
(a) 66-State Board of Examiners of Nursing Home Administrators	284,000	
(b) Reimbursements	−3,000	
1480-064-763—For support of State Board of Optometry, payable from the State Optometry Fund		354,000
Schedule:		
(a) 69-Board of Optometry	357,000	
(b) Reimbursements	−3,000	
1490-066-767—For support of California State Board of Pharmacy, payable from the Pharmacy Board Contingent Fund		2,441,000
Schedule:		
(a) 72-Board of Pharmacy	2,472,000	
(b) Reimbursements	−31,000	
1495-067-297—For support of Polygraph Examiners Board, Program 74, payable from the Polygraph Examiners Fund		90,000
1500-068-770—For support of State Board of Registration for Professional Engineers, payable from the Professional Engineers' Fund		2,605,000
Schedule:		
(a) 75-State Board of Registration for Professional Engineers	2,608,000	
(b) Reimbursements	−3,000	
1510-070-761—For support of Board of Registered Nursing, Program 78, payable from the Board of Registered Nursing Fund		4,810,000
Schedule:		
(a) 78-Board of Registered Nursing	4,888,000	
(b) Reimbursements	−78,000	
1520-072-771—For support of Certified Shorthand Reporters Board, payable from the Shorthand Reporters' Fund		220,000
Schedule:		
(a) 81-Certified Shorthand Reporters Board	223,000	
(b) Reimbursements	−3,000	
1530-074-775—For support of Structural Pest Control Board, payable from the Structural Pest Control Fund		1,850,000
Schedule:		
(a) 84-Structural Pest Control Board	1,953,000	
(b) Reimbursement	−1,000	
(c) Amount payable from the Structural Pest Control Education and Enforcement Fund	−102,000	
Provisions:		
1. A loan of $102,000 will be made to the Structural Pest Control Education and Enforcement Fund from the Structural Pest Control Fund during 1985–86.		

Item		Amount
1530-074-399—For support of the Structural Pest Control Board, for transfer to Item 1530-074-775, payable from the Structural Pest Control Education and Enforcement Fund		102,000
Provisions:		
1. In addition to the funds appropriated in this item, $50,000 is transferred from the Structural Pest Control Education and Enforcement Fund to the Structural Pest Control Fund as repayment for funds appropriated in Chapter 766, Statutes of 1984.		
2. A loan of $102,000 will be made from the Structural Pest Control Fund to the Structural Pest Control Education and Enforcement Fund. The loan will be repaid in fiscal year 1985–86 from revenue received from the pesticide use report filing fees, civil penalties collected pursuant to Section 8617 of the Business and Professions Code and other civil penalties collected by the Structural Pest Control Board.		
1540-076-406—For support of Tax Preparers Program, Program 87, payable from the Tax Preparers Fund		339,000
1560-078-777—For support of Board of Examiners in Veterinary Medicine, payable from the Board of Veterinary Examiners' Contingent Fund		578,000
Schedule:		
(a) 90.10.010-Board of Examiners in Veterinary Medicine	606,000	
(b) 90.10.020-Distributed Board of Examiners in Veterinary Medicine	−14,000	
(c) Reimbursements	−14,000	
1570-080-118—For support of Board of Examiners in Veterinary Medicine, Program 90, payable from the Animal Health Technician Examining Committee Fund		91,000
1590-082-779—For support of Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, payable from the Vocational Nurse and Psychiatric Technician Examiners' Fund, Vocational Nurse Account		2,066,000
Schedule:		
(a) 91.10.010-Vocational Nurses	2,118,000	
(b) 91.10.020-Distributed Vocational Nurses	−36,000	
(c) Reimbursements	−16,000	
1600-084-780—For support of Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, Program 91, payable from the Vocational Nurse and Psychiatric Technician Examiners Fund, Psychiatric Technicians Account		483,000
Provisions:		
1. The amount appropriated from this item is from the moneys deposited under the provisions of Section 4547 of the Business and Professions Code.		
1640-086-001—For support of Division of Consumer Services, Department of Consumer Affairs		1,170,000

Item		Amount
Schedule:		
(a) 93-Division of Consumer Services	1,871,000	
(b) Reimbursements	−26,000	
(c) Amount payable from the Consumer Affairs Fund (Item 1640-086-702)	−675,000	
1640-086-702—For support of Division of Consumer Services, Department of Consumer Affairs, for transfer to Item 1640-086-001, payable from the Consumer Affairs Fund		675,000
1650-088-001—For support of Consumer Advisory Council, Department of Consumer Affairs, Program 92		92,000
1655-090-702—For support of Department of Consumer Affairs, payable from the Consumer Affairs Fund		1,746,000
Schedule:		
(a) 94.01.010-Division of Administration	8,146,000	
(b) 94.01.020-Division of Investigation	3,653,000	
(c) 94.01.030-Building Maintenance and Operation	1,746,000	
(d) 94.02-Distributed Administration	−11,552,000	
(e) Reimbursements	−247,000	
Provisions:		
1. The Department of Consumer Affairs shall submit a report to the chairpersons of the fiscal subcommittees and the Chairperson of the Joint Legislative Budget Committee by August 1, 1985. The report shall consist of: (1) a detailed plan to aggressively implement the decentralization of the inspection responsibilities and staff of the Bureau of Home Furnishings, the Board of Cosmetology and the Board of Fabric Care by December 31, 1986; and (2) identification of legislation to fully implement the plan. The report shall also contain the inspection program requirements, including staffing requirements, of the Bureau of Home Furnishings, the Board of Cosmetology, the Board of Fabric Care, the Board of Examiners in Veterinary Medicine, the Bureau of Personnel Services, and the Structural Pest Control Board. The department shall, on January 1, 1986, begin implementation of its plan for decentralization of the inspection positions within the budgeted resources, to be completed over a one-year period, ending December 31, 1986.		
1655-092-001—For transfer from the Department of Consumer Affairs to the Office of the Legislative Analyst for an organization study		200,000

Item	Amount
Provisions: 1. The funds herein appropriated are to be transferred from the Department of Consumer Affairs to the Office of the Legislative Analyst for the purpose of contracting with an individual, group of individuals, firm, or organization deemed qualified and competent by the Legislative Analyst to study and develop recommendations concerning the organizational structure and central support services of the Department of Consumer Affairs. The consultant's report shall be submitted to the Legislature by March 15, 1986. The General Fund appropriation shall be reimbursed on a pro rata basis by the special funds within the Department of Consumer Affairs.	
1655-094-494—For allocation by executive order of the Department of Finance, from the special funds of the boards, bureaus, committees, and commissions of the Department of Consumer Affairs, for pro rata reimbursement of General Fund expenditures made by the Office of the Legislative Analyst under Item 1655-092-001	200,000
1700-001-001—For support of Department of Fair Employment and Housing	9,464,000
Schedule:	
(a) 50-Administration of Civil Rights Law 11,530,000	
(b) Amount payable from the Federal Trust Fund (Item 1700-001-890) .. −2,066,000	
Provisions: 1. The department shall not enter into any contract with the federal government for processing more than 6,000 federal cases, unless the federal government reimburses the department for the full costs of processing every case in excess of 6,000. 2. The department shall not enter into any contract with the federal government to require the department to resolve any specific number of cases through settlement procedures.	
1700-001-890—For support of Department of Fair Employment and Housing, for transfer to Item 1700-001-001, payable from the Federal Trust Fund	2,066,000
1705-001-001—For support of the Fair Employment and Housing Commission	767,000
Schedule:	
(a) 100000-Personal Services 605,000	
(b) 300000-Operating Expenses and Equipment 162,000	
1710-001-001—For support of State Fire Marshal	3,993,000
Schedule:	
(a) 100000-Personal Services 5,856,100	
(b) 300000-Operating Expenses and Equipment 3,155,900	
(c) Reimbursements ..... −2,768,000	

Item		Amount
(d) Amount payable from the California Fire Services Training and Education Fund (Item 1710-001-198)	−922,000	
(e) Amount payable from the California Fireworks Licensing Fund (Item 1710-001-199)	−440,000	
(f) Amount payable from the Hazardous Liquid Pipeline Safety Fund (Item 1710-001-209)	−889,000	
1710-001-198—For support of the State Fire Marshal, for transfer to Item 1710-001-001, payable from the California Fire Services Training and Education Fund		922,000
1710-001-199—For support of the State Fire Marshal, for transfer to Item 1710-001-001, payable from the California Fireworks Licensing Fund		440,000
Provisions:		
1. The proposed contracts for fireworks testing, disposal and development of a plant inspection guide for which funds are included under this item shall be bid as one contract.		
1710-001-209—For support of the State Fire Marshal, for transfer to Item 1710-001-001, payable from the Hazardous Liquid Pipeline Safety Fund		889,000
1730-001-001—For support of Franchise Tax Board		120,264,000
Schedule:		
(a) 100000-Personal Services	90,964,000	
(b) 300000-Operating Expenses and Equipment	32,342,000	
(c) Reimbursements	−2,959,000	
(d) Amount payable from the Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account, Fish and Game Preservation Fund (Item 1730-001-201)	−17,000	
(e) Amount payable from the U.S. Olympic Committee Fund (Item 1730-001-800)	−17,000	
(f) Amount payable from the State Children's Trust Fund (Item 1730-001-803)	−18,000	
(g) Amount payable from the California Election Campaign Fund (Item 1730-001-905)	−15,000	
(h) Amount payable from the California Seniors Fund (Item 1730-001-983)	−16,000	
Provisions:		
1. The Franchise Tax Board shall use the effectiveness criterion of net assessments per dollar cost in its audit selection and resource allocation processes and in reporting accomplishments to the Legislature. The board may use other criteria in evaluating the effectiveness of other aspects of the audit program. The board shall select audits and allocate audit resources solely		

Item		Amount
	on the basis of the incremental or marginal net assessments expected to be produced. Nothing in this proviso shall require the board to individually rank each return or preclude the board from conducting sample or discovery audits to the extent necessary.	
	2. None of the $342,500 in funds appropriated for the acquisition of work processing and other automation equipment for the board's Audit Bureau shall be expended until the Department of Finance's State Office of Information Technology has reviewed and approved a Feasibility Study Report for this project.	
1730-001-201—For support of Franchise Tax Board, for transfer to Item 1730-001-001, payable from the Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account, Fish and Game Preservation Fund		17,000
1730-001-800—For support of Franchise Tax Board, for transfer to Item 1730-001-001, payable from the U.S. Olympic Committee Fund		17,000
1730-001-803—For support of Franchise Tax Board, for transfer to Item 1730-001-001, payable from the State Children's Trust Fund		18,000
1730-001-905—For support of Franchise Tax Board, for transfer to Item 1730-001-001, payable from the California Election Campaign Fund		15,000
1730-001-983—For support of Franchise Tax Board, for transfer to Item 1730-001-001, payable from the California Seniors Fund		16,000
1730-495—Reversions, Franchise Tax Board. As of June 30, 1985, the unencumbered balance of the appropriations provided in the following citation shall revert to the unappropriated surplus of the fund from which the appropriation was made.		
001—General Fund:		
(1) Chapter 1581, Statutes of 1984.		
1760-001-001—For support of the Department of General Services, for transfer to Item 1760-001-666		8,185,000
Provisions:		
	1. In addition to the funds available in this item, any amounts received from the sale of the Governor's Budget and related publications funded from this item are available for expenditure.	
	2. Notwithstanding the provisions of Section 28, the Director of Department of Finance may authorize the expenditure of funds in the Department of General Services for purposes of implementing improvement in the Office of Procurement not sooner than thirty days after notifying the Chairman of the Joint Legislative Budget Committee and respective fiscal committee chairmen of the Legislature of the cost-service benefits of the measure.	

Item	Amount
3. $25,000 of this item's augmentation shall be used for follow-up purposes of reviewing the status of implementing the Management Study of the Administration of the Office of Procurement by the contracting company.	
4. The Director of the Department of Finance shall assess affected agencies and departments included in the State Procurement Task Force study of statewide contracting and procurement procedures to cover costs. The Task Force shall review the RFP issued by the Department of General Services prior to its being made public and shall jointly determine the award of the Procurement/Contracting study contract with the Department.	
5. Up to $55,000 of the amount appropriated in this item shall be available for an office needs assessment of the building known as the Consumer Services Building located in the block bounded by 10th and 11th, N and O Streets. These funds may be used for contracting with private companies upon the approval of the Joint Rules Committee evidenced by a resolution of the Committee.	
1760-001-002—For support of the Department of General Services, for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from the Property Acquisition Law Account, General Fund	672,000
Provisions:	
1. Notwithstanding any other provision of law to the contrary, up to $59,000 appropriated under this item shall be available to finance identification of potential surplus state property under the surplus real property development program.	
1760-001-003—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from Motor Vehicle Parking Facilities Moneys Account, General Fund	2,292,000
1760-001-006—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from the Access for Handicapped Account, General Fund	385,000
1760-001-022—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from State Emergency Telephone Number Account, General Fund	984,000
1760-001-026—For support of the Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from the State Motor Vehicle Insurance Account, General Fund	6,512,000

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1760-001-120—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from School Building Program Account, Architecture Public Building Fund	1,438,000
1760-001-122—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from Hospital Plan Checking Account, Architecture Public Building Fund	3,374,000
1760-001-344—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from the State School Building Lease-Purchase Fund	3,070,000
1760-001-397—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from the California State Police Fund	40,000
Provisions: 1. If Senate Bill 630 of the 1985–86 Regular Session is chaptered during the 1985–86 fiscal year, any unexpended funds appropriated in this item shall be transferred to Item 1840-001-397 upon the effective date of the bill.	
1760-001-450—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from the Seismic Gas Valve Certification Fund	75,000
1760-001-465—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from the Energy Resources Programs Account, General Fund	1,139,000
Provisions: 1. On March 1, 1986, and annually thereafter, the Director of General Services shall report to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the legislative fiscal committees on the actual and projected expenditures of the Office of Energy Assessments. The report shall identify personal service costs and operating expenses for each project, including third-party-financed energy projects.	
1760-001-494—For augmentation for the state's contribution for the cost of insurance benefits for employees designated as managers by the Department of Personnel Administration	130,000
Provisions: 1. The funds herein appropriated are to be allocated by the Department of Finance to the several offices, departments, boards, bureaus, commissions and other state agencies in augmentation of their respective appropriations for support or for other purposes, in such amount as will make	

Item Amount

available for each designated manager in the state service, whose compensation, or portion thereof, is chargeable to special funds, to receive any life insurance benefit provided pursuant to Government Code Section 19849.11.

1760-001-602—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from the Architecture Revolving Fund 11,556,000

Provisions:

1. The appropriation from the Architecture Revolving Fund Item 1760-001-602 is for expenditure by the Office of State Architect for the purposes specified in Section 14957 of the Government Code.
3. Within 60 days of the enactment of this act, notice shall be given to the Joint Legislative Budget Committee of the revisions necessary to the budget of the Department of General Services funded from the Architecture Revolving Fund to reflect the changes made to capital outlay project funding by the Legislature. The Director of Finance shall, pursuant to Section 28 of this act, revise the appropriations contained in this item to coincide with the revisions reported by the department.
4. The limitations of Item 9840-001-988 shall not apply to any deficiency expenditure authorization for the Architecture Revolving Fund pursuant to Section 11006 of the Government Code, in cases where the Legislature approves funds for a particular project, the project involves additional expense by the Department of General Services and no additional funds have been appropriated to the Department of General Services for purposes of that project.
5. The professional staff assigned to basic architectural and engineering services within the Office of State Architect shall not exceed 69 personnel-years during the 1985–86 fiscal year, in accordance with the September 1984 report to the Legislature on projected workload in the office.

1760-001-666—For support of Department of General Services, payable from the Service Revolving Fund 262,046,000

Schedule:

(a) 100000-Personal Services	138,842,000
(b) 300000-Operating Expenses and Equipment	215,898,000
(d) Distributed services	−49,224,000
(e) Amount payable from the General Fund (Item 1760-001-001)	−8,185,000
(f) Amount payable from the Property Acquisition Law Account, General Fund (Item 1760-001-002)	−672,000

Item		Amount
	(g) Amount payable from the Motor Vehicle Parking Facilities Moneys Account, General Fund (Item 1760-001-003)	−2,292,000
	(h) Amount payable from the Access for Handicapped Account, General Fund (Item 1760-001-006)	−385,000
	(i) Amount payable from the State Emergency Telephone Number Account, General Fund (Item 1760-001-022)	−984,000
	(j) Amount payable from the State Motor Vehicle Insurance Account, General Fund (Item 1760-001-026)	−6,512,000
	(k) Amount payable from the School Building Program Account, Architecture Public Building Fund (Item 1760-001-120)	−1,438,000
	(*l*) Amount payable from the Hospital Plan Checking Account, Architecture Public Building Fund (Item 1760-001-122)	−3,374,000
	(m) Amount payable from the State School Lease Purchase Fund (Item 1760-001-344)	−3,070,000
	(n) Amount payable from the California State Police Fund (Item 1760-001-397)	−40,000
	(o) Amount payable from the Seismic Gas Valve Certification Fund (Item 1760-001-450)	−75,000
	(p) Amount payable from the Energy Resources Programs Account, General Fund (Item 1760-001-465)	−1,139,000
	(q) Amount payable from the Architecture Revolving Fund (Item 1760-001-602)	−11,556,000
	(r) Amount payable from the Surplus Personal Property Revolving Fund (Item 1760-001-688)	−2,668,000
	(s) Amount payable from the State School Building Aid Fund (Item 1760-001-739)	−637,000
	(t) Amount payable from the Federal Trust Fund (Item 1760-001-890)	−100,000
	(u) Amount payable from the State School Deferred Maintenance Fund (Item 1760-001-961)	−343,000

Provisions:

1. From any balance in the Service Revolving Fund, the Director of General Services, with the approval of the Director of Finance, may expend funds in excess of the amount appropriated in this item for the purchase of office copier machines. Any such amounts authorized by the

Item Amount

Director of Finance for the purchase of office copier machines are hereby appropriated from the Service Revolving Fund as a loan to be repaid upon such terms and conditions as prescribed by the Director of Finance.

2. No more than $36,595,000 appropriated in this item may be expended for support of the Office of State Printing.
3. Purchase of any equipment for the Office of State Printing, except as provided for in this item, is subject to Section 28 of this act.
4. Any surplus resulting from legislative printing shall be shown as reimbursements to Item 0130-021-001 of this act.
5. None of the funds appropriated in this item may be expended to operate the gasification plant in Sacramento unless the Department of General Services determines that it is economical to do so. The Department of General Services shall report to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees of each house on a quarterly basis beginning October 1, 1984, on the status of the gasification plant and the department's determination of any savings achieved by operation of the gasification plant.
7. The limitation of Item 9840-001-988 shall not apply to any deficiency expenditure authorization for the Service Revolving Fund pursuant to Section 11006 of the Government Code, in cases where the Legislature approves funds for a particular service or purchase of equipment, the provision of the service or purchase of the equipment involves additional expense to be incurred by the Department of General Services and no additional funds have been appropriated to the department for that purpose.
8. The Department of General Services shall immediately establish whether the state or the consulting contractor or architect is liable for the cost of correcting the design and/or construction deficiencies in new state office buildings, including the building in San Jose, The Long Beach Energy Commission Building in Sacramento, the Site 3 Building in Sacramento, the Gregory Bateson Building, and the Justice Building in Sacramento, as identified in Department of General Services' 1985–86 special repairs projects. The Department of General Services shall take immediate action to require the responsible contractor or architect to correct these problems at no cost to the state.
9. The Department of General Services shall repair all improperly installed doorways in the San Jose State office building using funds within the Service Revolving Fund.

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11. The Department of General Services shall not contract for janitorial services in state office buildings scheduled for occupation in 1985–86 in San Francisco and Sacramento, and the state office building in Van Nuys.
12. The Department of General Services shall expend up to $4,583,000 for the purchase of customer premise telephone equipment subject to repayment without interest at a rate subject to agreement with each client department for repayment. Information about the purchase cost of equipment and rate of repayment shall be reported to the Department of Finance and the Joint Legislative Budget Committee within 30 days of the commitment of funds.
13. The budget for the 1986–87 fiscal year for two program elements of this budget item shall be prepared using a zero-base budget technique. The Department of Finance and the Department of General Services shall select the two program elements.
14. If Senate Bill 630 of the 1985–86 Regular Session is chaptered during the 1985–86 fiscal year, any unexpended funds appropriated in this item specifically for the support of the California State Police shall be transferred to Item 1840-001-666 upon the effective date of that bill.

1760-001-688—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from the Surplus Personal Property Revolving Fund 2,668,000

1760-001-739—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from the State School Building Aid Fund 637,000

1760-001-890—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from the Federal Trust Fund..... 100,000

1760-001-961—For support of Department of General Services for activities other than the Office of State Printing, for transfer to Item 1760-001-666, payable from the State School Deferred Maintenance Fund 343,000

1760-001-988—For augmentation for the state's contribution for the cost of insurance benefits for employees designated as managers by the Department of Personnel Administration 109,000

Provisions:

1. The funds herein appropriated are to be allocated by the Department of Finance to the several offices, departments, boards, bureaus, commissions and other state agencies in augmentation of their respective appropriations for support or for other purposes, in such amount as will make available for each designated manager in the

Item	Amount
state service, whose compensation, or portion thereof, is chargeable to nongovernmental cost funds, to receive any life insurance benefit provided pursuant to Government Code Section 19849.11.	
1760-011-666—For augmentation of the Service Revolving Fund, to be transferred by the State Controller in such amounts and at such times as funds are made available. Upon approval of the State Board of Control, the State Controller shall transfer to this item from any appropriation made from the General Fund, or any special fund, by the provisions of this act that part of such appropriation which is intended to be used and is available, for the purchase or replacement of automobiles and reproduction equipment, and provided, any funds in the Service Revolving Fund may be used to purchase equipment from the General Fund or special funds of the State at the depreciated value at the time of purchase payable at the option of the Service Revolving Fund over the remaining depreciation period.	
1760-021-001—For augmentation for the state's contribution for the cost of insurance benefits for employees designated as managers by the Department of Personnel Administration	225,000
Provisions: 1. The funds herein appropriated are to be allocated by the Department of Finance to the several offices, departments, boards, bureaus, commissions and other state agencies in augmentation of their respective appropriations for support or for other purposes, in such amount as will make available for each designated manager in the state service, whose compensation, or portion thereof, is chargeable to the General Fund, to receive any life insurance benefit provided pursuant to Government Code Section 19849.11.	
1760-101-022—For local assistance, Department of General Services, for reimbursement of local agencies and service suppliers or communications equipment companies for costs incurred pursuant to Sections 41137, 41137.1, 41138, and 41140 of the Revenue and Taxation Code, payable from the State Emergency Telephone Number Account, General Fund	47,448,000
1760-101-036—For local assistance, Department of General Services, to provide startup grant for buildings and permanent exhibits at the California Academy of Sciences, including environmental impact report, working drawings, and design and detail drawings	2,500,000
1760-301-036—For Capital Outlay, Department of General Services, payable from the Special Account for Capital Outlay	3,925,000
Schedule: (1) 50.10.001—Atrium Roof, Site 1B —Preliminary Plans 45,000	

Item		Amount
(6)	50.10.025-Justice Building—HVAC System—Working Drawings and Construction	299,000
(7)	50.10.050-Franchise Tax Board—Phase II—Preliminary Plans	841,000
(8)	50.40.010-San Francisco Backfill—Working Drawings	222,000
(9)	50.45.001-San Jose State Building—Items to Complete—Preliminary Plans, Working Drawings, and Construction	18,000
(10)	50.95.000-Minor projects	608,000
(11)	50.98.010-Statewide Space Planning	199,000
(12)	50.98.030-Statewide Elevator Modifications—Working Drawings and Construction	48,000
(14)	50.10.045-Sacramento-New State Building, Site 5—Working Drawings	622,000
(15)	50.10.010-Sacramento—"O" Street Mall—Preliminary Plans, Working Drawings, and Construction	600,000
(16)	50.22.011-Long Beach Building HVAC Alterations—Preliminary Plans, Working Drawings and Construction	423,000

Provisions:

1. The funds appropriated in category (1) shall be allocated provided that the Department of General Services shall consider less costly options than the proposed steel frame design for the atrium roof for site 1B.
2. The funds appropriated in category (7) shall be allocated provided that the warehouse building shall be located in such a way as to allow for construction of a freeway off-ramp from westbound Highway 50 to Mayhew Road.

1760-490—Reappropriation, Department of General Services. Notwithstanding any other provisions of law, the unencumbered balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes provided for in the appropriations, and shall be available for expenditure until June 30, 1986:

036—Special Account for Capital Outlay

(1) Item 1760-311-036, Budget Act of 1984—Replacement of PCB-contaminated equipment.

Provisions:

1. The funds in this item shall be available for expenditure only to comply with final regulations adopted by the Environmental Protection Agency concerning PCB items located in mechanical equipment/switchgear rooms.

Item		Amount
(2) Item 1760-321-036(2), Budget Act of 1984—Statewide replacement and repair leaking PCB fluids.		
Provisions:		
1. The funds in category (2) shall not be available for expenditure until the Department of General Services reports to the Legislature on how the disposal of PCB items under this item will be coordinated with other PCB disposal activities planned by the department.		
1760-491—Reappropriation—Department of General Services. Notwithstanding any other provision of law, the unencumbered balance, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes provided for in the appropriations and shall be available for expenditure until June 30, 1986.		
001—General Fund		
(1) Item 1760-001-001, Budget Act of 1984—Capitol Security		
344—State School Lease Purchase Fund		
(1) Item 1760-001-344, Budget Act of 1984—Office of Local Assistance (not to exceed $600,000).		
Provisions:		
1. The funds reappropriated from the General Fund by this item shall be available for security improvements in the State Capitol complex. Notwithstanding Section 6.00, these funds may be used for alterations, for support costs, or for capital outlay purposes with the written approval of the Director of Finance and the approval of the Joint Rules Committee, as evidenced by passage of a resolution of the committee.		
1840-001-397—For support of the Office of the California State Police, for transfer to Item 1840-001-666, payable from the California State Police Fund.....		1,000
1840-001-666—For support of the Office of the California State Police, payable from the Service Revolving Fund		1,000
Schedule:		
(a) 100000—Personal Services.....	1,000	
(b) 300000—Operating expense and equipment.....	1,000	
(c) Amount payable from the California State Police Fund (Item 1840-001-397)	−1,000	
1880-001-001—For support of State Personnel Board....		21,020,000
Schedule:		
(a) 10-Merit System Administration ..	20,609,000	
(b) 20-Appeals.....	2,320,000	
(c) 40-Local Government Services	1,764,000	
(d) 50.01-Administrative Services.....	3,978,000	
(e) 50.02-Distributed Administrative Services	−3,624,000	

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(f) Reimbursements ..... —3,260,000

(g) Amount payable from the Cooperative Personnel Services Revolving Fund (Item 1880-001-677) ..... —767,000

Provisions:

1. None of the funds specified in Program 10 for the jobs program, exclusive of COD participants who are clients of the Department of Rehabilitation, shall be used for defraying the payroll cost of a participant unless the employer of the participant pays at least 20 percent of such payroll cost.
2. To maximize the use of federal funds in the state, the State Personnel Board shall enter into an agreement with the Department of Rehabilitation for transfer of $1,822,000 of the funds appropriated in category (a), which the department shall use to match available Rehabilitation "110" federal funds; provided further, that the interagency agreement shall require the Department of Rehabilitation to purchase on-the-job training services from the State Personnel Board in the amount of $1,822,000, to be paid from these matched funds, and to provide the State Personnel Board $455,000 of these matched funds to support administrative activities and related costs in the board's disabled unit.
3. Salary increases for trainees in the career opportunities development program shall be equivalent to such increases granted state civil service employees of similar classifications within the same bargaining unit for the 1985–86 fiscal year.
4. The State Personnel Board may receive unbudgeted reimbursements from state agencies pursuant to interagency agreements for the provision of additional personnel services only upon approval of the Director of Finance and notification to the Legislature pursuant to the provisions of Section 28, except for reimbursements for which funding originates from nonstate sources.

1880-001-677—For support of State Personnel Board, for transfer to Item 1880-001-001, payable from the Cooperative Personnel Services Revolving Fund 767,000

1900-001-001—For support of Board of Administration of the Public Employees' Retirement System, for transfer to Item 1900-001-830 61,000

1900-001-815—For support of Board of Administration of the Public Employees' Retirement System, for transfer to Item 1900-001-830, payable from the Judges' Retirement Fund 177,000

Provisions:

1. The appropriation made by this item is for support of the Board of Administration in accordance with Section 75108 of the Government Code.

Item		Amount
1900-001-820—For support of Board of Administration of the Public Employees' Retirement System, for transfer to Item 1900-001-830, payable from the Legislators' Retirement Fund		111,000
Provisions:		
1. The appropriation made by this item is for support of the Board of Administration in accordance with Section 9354 of the Government Code.		
1900-001-830—For support of Board of Administration of the Public Employees' Retirement System, payable from the Public Employees' Retirement Fund		30,917,000
Schedule:		
(a) 10-Retirement	30,315,000	
(b) 20-Social Security	691,000	
(c) 30-Health Benefits	2,598,000	
(d) 40-PERS System Redesign Project	1,023,000	
(e) 50.01-Administration	17,684,000	
(f) 50.02-Distributed Administration	−17,419,000	
(g) Reimbursements	−946,000	
(h) Amount payable from the General Fund (Item 1900-001-001)	−61,000	
(i) Amount payable from the Judges' Retirement Fund (Item 1900-001-815)	−177,000	
(j) Amount payable from the Legislators' Retirement Fund (Item 1900-001-820)	−111,000	
(k) Amount payable from the Public Employees' Contingency Reserve Fund (Item 1900-001-950)	−2,634,000	
(*l*) Amount payable from the Volunteer Firefighters Length of Service Award System Fund (Item 1900-001-962)	−46,000	
1900-001-950—For support of Board of Administration of the Public Employees' Retirement System, for transfer to Item 1900-001-830, payable from the Public Employees' Contingency Reserve Fund		2,634,000
Provisions:		
1. The appropriation made by this item is for support of the Board of Administration pursuant to Section 22840 of the Government Code.		
1900-001-962—For support of Board of Administration of the Public Employees' Retirement System, for transfer to Item 1900-001-830, payable from the Volunteer Firefighters Length of Service Award System Fund		46,000
1920-001-835—For support of State Teachers' Retirement System, payable from the State Teachers' Retirement Fund		14,259,000
Schedule:		
(a) 100000-Personal Services	9,847,207	
(b) 300000-Operating Expenses and Equipment	4,878,793	

Item		Amount
(c) Reimbursements	−308,000	
(d) Amount payable from the Teacher Tax Sheltered Annuity Fund (Item 1920-001-963)	−62,000	
(e) Amount payable from the Retirees' Purchasing Power Protection Account in the State Teachers' Retirement Fund pursuant to Section 24701 of the Education Code	−97,000	
1920-001-963—For support of State Teachers' Retirement System, for transfer to Item 1920-001-835 payable from the Teacher Tax Sheltered Annuity Fund		62,000
Provisions:		
1. This appropriation is for costs incurred in operating the tax-sheltered annuity program pursuant to Section 22231 of the Education Code.		
1960-001-001—For support of Department of Veterans Affairs		2,323,000
Schedule:		
(a) 100000-Personal Services	2,509,000	
(b) 300000-Operating Expenses and Equipment	422,000	
(c) Educational Assistance to Veterans' Dependents	459,000	
(d) Reimbursements	−137,000	
(e) Amount payable from the Veterans' Farm and Home Building Fund of 1943 (Item 1960-001-592)	−896,000	
(f) Amount payable from the California National Guard Farm and Home Building Fund of 1978	−34,000	
Provisions:		
1. Expenditures pursuant to Schedule (c) are for educational assistance to veterans' dependents, Department of Veterans Affairs, to be expended under the provisions of Sections 890 through 899 of the Military and Veterans Code provided, that no funds appropriated by this item, except as specified, may be expended to provide financial assistance for the education of dependents of non-California veterans killed or totally disabled as a result of active military service and of non-California servicemen currently missing in action.		
2. This restriction shall not apply to dependents receiving such financial assistance in, or prior to, fiscal year 1978–79. Provided further, that "non-California veteran" means persons not meeting the requirements of Section 980 of the Military and Veterans Code.		

Item Amount

3. No funds shall be expended for educational assistance program grants to persons whose family incomes exceed the following limits:
(a) $30,000 for three or fewer family members.
(b) $32,000 for four family members.
(c) $34,000 for five family members.
(d) $36,000 for six or more family members.
(e) $38,000 for three or more family members, if at least two members are attending college.

As used in this provision, the term "family member" shall include only the dependent applicant; the parents, either natural or adoptive, of the dependent applicant; the dependent brothers and sisters, either natural or adoptive, of the dependent applicant; the spouse of the dependent applicant, if married; and any other persons who are dependent upon the family income for more than 50 percent of their support. The term "family income" shall include only the income of the dependent applicant; the parents, either natural or adoptive, of the dependent applicant; and, if married, the spouse of the dependent applicant; and shall mean "adjusted gross income" as that term is defined in Section 17072 of the Revenue and Taxation Code.

1960-001-592—For support of Department of Veterans' Affairs, for transfer to Item 1960-001-001, payable from the Veterans' Farm and Home Building Fund of 1943 896,000

1960-101-001—For local assistance, Department of Veterans Affairs, for contribution to counties toward compensation and expenses of county veteran services offices, to be expended in accordance with Section 972 of the Military and Veterans Code 1,000,000

1970-011-001—For support of Veterans' Home of California 19,890,000

Schedule:

(a) 30-Care of Sick and Disabled Veterans	36,649,000
(b) Reimbursements	−4,158,000
(c) Amount payable from the Federal Trust Fund (Item 1970-011-890) ..	−12,601,000

Provisions:

1. This appropriation shall be reduced by the amount of any federal funds received in excess of $12,601,000 appropriated by Item 1970-011-890 in a manner prescribed by the Department of Finance, unless expenditure of these funds is authorized by the Department of Finance. This authorization shall not become effective sooner than 30 days after notification, in writing, of the Joint Legislative Budget Committee or a lesser time, which the chairman of the committee or his or her designee may, in each instance, determine.

Item		Amount
2. Any reduction to this appropriation as a result of the receipt of additional federal funds pursuant to provision 1 above shall be allocated on the basis of 85 percent General Fund and 15 percent reimbursement.		
1970-011-890—For support of Veterans' Home of California, for transfer to Item 1970-011-001, payable from the Federal Trust Fund		12,601,000
Provisions:		
1. Any reimbursements of federal funds received by the Veterans' Home of California in excess of the amounts set forth in this item shall revert to the unappropriated surplus of the General Fund in a manner prescribed by the Department of Finance, unless expenditure of such funds is authorized by the Department of Finance. Such authorization shall not become effective sooner than 30 days after notification in writing of the Joint Legislative Budget Committee or such lesser time as the committee or its designee may, in each instance, determine.		
1970-301-036—For Capital Outlay, Veterans' Home of California, Department of Veterans Affairs, payable from the Special Account for Capital Outlay		3,731,000
Schedule:		
(1) 80.20.020—Remodel Section A (Domiciliary)—Construction	640,000	
(2) 80.20.025—Remodel Section C (Domiciliary)—Construction	935,000	
(3) 80.20.030—Remodel Section D (Domiciliary)—Construction	838,000	
(4) 80.20.035—Correct Code Deficiencies in Section F—Working Drawings	139,000	
(5) 80.20.045—Minor projects	631,000	
(6) 80.20.050—Renovate Hospital Support Services—Preliminary Plans	26,000	
(7) 80.20.055—Remodel Hospital Wards 1, 2 and 3A—Working Drawings	79,000	
(8) 80.20.060—Remodel Section B (Intermediate)—Working Drawings	82,000	
(9) 80.20.065—Primary Electrical Service—Electrical Load Survey	8,000	
(10) 80.20.070—Remodel Hospital Wards 1, 2 and 3B—Preliminary Plans	37,000	
(11) 80.20.075—Remodel Hospital Wards 2, 3E and Administration—Preliminary Plans	46,000	
(12) 80.20.080—Annex II (ICF)—Preliminary Plans	51,000	
(13) 80.20.085—Remodel Section E (Domiciliary)—Working Drawings	68,000	

Item		Amount
(14) 80.20.090—Hospital Food Service —Preliminary Plans and Working Drawings	40,000	
(15) 80.20.095—Main Kitchen Renovation—Preliminary Plans and Working Drawings	43,000	
(16) 80.20.100—Correct Code Deficiencies in Section H—Preliminary Plans	19,000	
(17) 80.20.105—Correct Code Deficiencies in Section J—Preliminary Plans	17,000	
(18) 80.20.110—Correct Code Deficiencies in Section K—Preliminary Plans	16,000	
(19) 80.20.115—Correct Code Deficiencies in Section L—Preliminary Plans	16,000	

Provisions:

1. The funds for working drawings in categories (4) and (7) shall be allocated no sooner than 30 days after the Department of Veterans Affairs has submitted completed preliminary plans to the Chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislature Budget Committee. Completed preliminary plans must be submitted no later than January 1, 1986, at which time the review period shall commence.
   Failure to provide preliminary plans by January 1, 1986, shall cause the unencumbered balance of the appropriation for that category to revert to the Special Account for Capital Outlay.

1970-301-890—For Capital Outlay, Veterans' Home of California, Department of Veterans Affairs payable from the Federal Trust Fund 5,842,000

Schedule:

(1) 80.20.020—Remodel Section A (Domiciliary)—Construction	1,716,000	
(2) 80.20.025—Remodel Section C (Domiciliary)—Construction	2,278,000	
(3) 80.20.030—Remodel Section D (Domiciliary)—Construction	1,848,000	

1970-490—Reappropriation, Department of Veterans Affairs. Notwithstanding any other provisions of law, the unencumbered balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes provided for in the appropriations, and shall be available for expenditure until June 30, 1986:

036—Special Account for Capital Outlay Item 1970-301-036, Budget Act of 1984.

(1) 80.40.030—Storm Drainage System—Preliminary Plans, Working Drawings and Construction.

Item		Amount
890—Payable from the Federal Trust Fund Item 1970-301-890, Budget Act of 1984.		
(1) 80.20.010—Hospital Addition-Acute Care Facility—Construction.		

BUSINESS, TRANSPORTATION AND HOUSING

2100-001-001—For support of Department of Alcoholic Beverage Control		16,687,000
Schedule:		
(a) 10.10-Licensing	10,958,000	
(b) 10.20-Compliance	6,294,000	
(c) 10.30.010-Administration	2,120,000	
(d) 10.30.020-Distributed Administration	−2,120,000	
(e) Reimbursements	−565,000	
2120-001-117—For support of Alcoholic Beverage Control Appeals Board, Program 10, payable from the Alcoholic Beverage Control Appeals Fund		386,000
2140-001-136—For support of State Banking Department, payable from the State Banking Fund		8,521,000
Schedule:		
(a) 100000-Personal Services	6,837,000	
(b) 300000-Operating Expenses and Equipment	1,849,000	
(c) Reimbursements	−100,000	
(d) Amount payable from the Local Agency Deposit Security Fund (Item 2140-001-240)	−65,000	
2140-001-240—For support of State Banking Department, for transfer to Item 2140-001-136, payable from the Local Agency Deposit Security Fund		65,000
2180-001-001—For support of Department of Corporations		8,143,000
Schedule:		
(a) 100000-Personal Services	13,466,000	
(b) 300000-Operating Expenses and Equipment	2,849,000	
(c) Reimbursements	−8,172,000	
Provisions:		
1. Notwithstanding the provisions of Section 1382 of the Health and Safety Code, any payments received pursuant to that section shall be credited to this item as reimbursements and are hereby appropriated for the purposes of this item.		
2200-001-001—For support of Department of Commerce		17,100,000
Schedule:		
(a) 10-Business Development	2,961,000	
(b) 15-California Film Office	522,000	
(c) 30-Tourism	6,696,000	
(d) 40-Local Development	922,000	
(e) 50-Small Business	5,705,000	
(f) 60-Economic Research	1,117,000	

Item		Amount
(g)	70.01-Administration	1,096,000
(h)	70.02-Distributed Administration	−1,101,000
(i)	Reimbursements	−245,000
(j)	Amount payable from the Small Business Development Center Fund (Item 2200-001-801)	−437,000
(k)	Amount payable from the Federal Trust Fund (Item 2200-001-890)	−136,000

Provisions:

1. Of the amount appropriated in category (e) for support of the Office of Small Business, $3,023,000 shall be for transfer to the Small Business Expansion Fund.
2. Of the amount appropriated in category (e) for support of the Office of Small Business, $437,000 shall be for transfer to the Small Business Development Center Fund.
3. Of the amount appropriated in category (c) for support of the Office of Tourism, $785,000 shall be for allocation to a non-profit corporation for the purpose of implementing Phase II planning for the Hollywood Exposition. The nonprofit corporation to which these funds are allocated shall have as its primary purpose the planning, construction, and operation of a Hollywood Exposition, which would include exhibits dealing with the past, present, and future of the entertainment industry. Phase II planning shall include the establishment of a fundraising committee and the completion of architectural and exhibit design work, including detailed cost estimates and construction and exhibit development schedules.
4. Of the amount appropriated in category (b), no more than 60 percent shall be available for expenditure until the California Film Office has submitted a filmmaking marketing plan to the Motion Picture Council and the plan has been approved by the council.
5. None of the moneys appropriated for the tourism marketing program in category (c) shall be used to purchase any media advertisements that feature the name or image of any elected official.

2200-001-801—For state operations, Department of Commerce, for transfer to Item 2200-001-001, payable from the Small Business Development Center Fund	437,000
2200-001-890—For support of Department of Commerce, for transfer to Item 2200-001-001, payable from the Federal Trust Fund	136,000
2200-101-922—For local assistance, Department of Commerce, Program 40, Office of Local Development, payable from the California Economic Development Grant and Loan Fund	3,200,000

Item		Amount
Provisions:		
1. In addition to moneys appropriated by this item, all revenues received and deposited into the California Economic Development Grant and Loan Fund shall be available to the department during the 1985–86 fiscal year for expenditure not sooner than 30 days after written notification of the necessity thereof is submitted to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee.		
2. Of the amount appropriated by this item, $500,000 shall be available for the purpose of making a loan to capitalize a bonding program for small business contractors. In the development of this program, the department shall utilize a surety company which has at least five years of experience in providing management, financial, and technical assistance to minority contractors, at least five years of experience in bonding minority contractors, and at least 50 percent of its bonding portfolio with minority contractors.		
2240-001-001—For support of Department of Housing and Community Development		5,148,000
Schedule:		
(a) 10-Codes and Standards Program	15,584,000	
(b) 20-Community Affairs Program ..	11,763,000	
(c) 30-Housing Policy Development Program	1,134,000	
(d) 50.01-Administration	6,247,000	
(e) 50.02-Distributed Administration..	−6,291,000	
(f) Reimbursements	−7,214,000	
(g) Amount payable from the Mobilehome Park Revolving Fund (Item 2240-001-245)	−2,037,000	
(h) Amount payable from the Manufactured Home License Fee Account, General Fund (Item 2240-001-451)	−1,723,000	
(i) Amount payable from the Rural Predevelopment Loan Fund (Item 2240-001-635)	−164,000	
(j) Amount payable from the Mobilehome-Manufactured Housing Revolving Fund (Item 2240-001-648)	−9,870,000	
(k) Amount payable from the Federal Trust Fund (Item 2240-001-890) ..	−966,000	
(*l*) Amount payable from the Housing Rehabilitation Loan Fund (Item 2240-001-929)	−440,000	
(m) Amount payable from the Homeownership Assistance Fund (Item 2240-001-936)	−183,000	

Item		Amount
(n) Amount payable from the Rental Housing Construction Fund (Item 2240-001-938)		−472,000
(o) Amount payable from the Urban Predevelopment Loan Fund (Item 2240-001-980)		−170,000
(p) Amount payable from the General Fund (Item 2240-011-001)		−50,000

Provisions:

1. Of the amount appropriated by this item, $100,000 shall be an augmentation to the Rural Development Assistance Program, to be used for contracted services in Tehama, Butte, Glenn, and Yuba Counties. The contracted services shall be with regional nonprofit entities that are currently working in or have access to the area, and that have experience in providing and will under the contract provide comprehensive housing and community development services. Up to one-half of the contracted services shall be for community economic development services.

2240-001-245—For support of Department of Housing and Community Development, for transfer to Item 2240-001-001, payable from the Mobilehome Park Revolving Fund	2,037,000
2240-001-451—For support of Department of Housing and Community Development, for transfer to Item 2240-001-001, payable from the Manufactured Home License Fee Account, General Fund	1,723,000
2240-001-635—For support of Department of Housing and Community Development, for transfer to Item 2240-001-001, payable from the Rural Predevelopment Loan Fund	164,000
2240-001-648—For support of Department of Housing and Community Development, for transfer to Item 2240-001-001, payable from the Mobilehome-Manufactured Housing Revolving Fund	9,870,000
2240-001-890—For support of Department of Housing and Community Development, for transfer to Item 2240-001-001, payable from the Federal Trust Fund	966,000
2240-001-929—For support of Department of Housing and Community Development, for transfer to Item 2240-001-001, payable from the Housing Rehabilitation Loan Fund	440,000
2240-001-936—For support of Department of Housing and Community Development, for transfer to Item 2240-001-001, payable from the Homeownership Assistance Fund	183,000
2240-001-938—For support of Department of Housing and Community Development, for transfer to Item 2240-001-001, payable from the Rental Housing Construction Fund	472,000
2240-001-980—For support of Department of Housing and Community Development, for transfer to Item 2240-001-001, payable from the Urban Predevelopment Loan Fund	170,000

Item	Amount
2240-011-001—For support of Department of Housing and Community Development, for housing assistance for the disabled, as provided in Section 50689 of the Health and Safety Code, for transfer to Item 2240-001-001	50,000
2240-011-648—For support of Department of Housing and Community Development, for transfer to Item 2700-001-044, payable from the Mobilehome Manufactured Housing Revolving Fund	100,000
Provisions: 1. Funds in this item shall be expended for a feasibility study to be conducted by the Office of Traffic Safety per interagency contract with the Department of Housing and Community Development. The feasibility study shall examine whether manufactured homes in excess of 12, but not exceeding 14, feet in width can be transported safely upon the State's highways without the use of pilot vehicles.	
2240-101-001—For local assistance, Department of Housing and Community Development	6,900,000
Schedule: (a) 20-Community Affairs ..... 47,827,000 (c) Amount Payable from the Federal Trust Fund (Item 2240-101-890)..-40,027,000 (i) Amount Payable from the Special Deposit Fund (Item 2240-101-942) -900,000	
Provisions: 1. Of the amount appropriated by this item, $2,500,000 shall be available for transfer to the Farmworker Housing Grant Fund (927).	
2240-101-890—For local assistance, Department of Housing and Community Development, for transfer to Item 2240-101-001, payable from the Federal Trust Fund	40,027,000
2240-101-942—For local assistance, Department of Housing and Community Development, for transfer to Item 2240-101-001, payable from the Special Deposit Fund	900,000
2240-102-001—For local assistance, Department of Housing and Community Development, for deposit in the Rental Housing Construction Fund, to be expended for rental construction programs pursuant to Chapter 9 (commencing with Section 50735) of Part 2 of Division 31 of the Health and Safety Code, except for Sections 50738.5 and 50745.1 of the Health and Safety Code, provided that no more than 3 percent of the amount may be transferred to category (b) of Item 2240-001-001 for personnel or contracted services, and provided that at least 10 percent of the amount shall be allocated for projects in cities with 20,000 or less in population in a county of the first class	10,000,000

Item	Amount
2240-103-001—For local assistance, Department of Housing and Community Development, for deposit in the Housing Rehabilitation Loan Fund, to be expended for rehabilitation programs pursuant to Chapter 6.5 (commencing with Section 50660) of Part 2 of Division 31 of the Health and Safety Code, except for acquisition and rehabilitation of hotels for elderly or handicapped persons, provided that no more than 3 percent of the amount may be transferred to category (b) of Item 2240-001-001 for personnel or contracted services, and provided that at least 5 percent, but no more than 10 percent, of the amount shall be allocated for projects in cities with 20,000 or less in population in a county of the first class	7,000,000
2240-104-001—For local assistance, Department of Housing and Community Development, for deposit in the Emergency Housing and Assistance Fund, for emergency shelter programs commencing with Section 50800 of the Health and Safety Code, provided that no more than 3 percent of this amount may be transferred to category (b) of Item 2240-001-001 for personnel or contracted services	5,000,000
2240-105-001—For local assistance, Department of Housing and Community Development, for deposit in the Housing Rehabilitation Fund, for acquiring and rehabilitating residential hotels for the elderly and handicapped pursuant to paragraph (2) of subdivision (a) of Section 50661 of the Health and Safety Code, provided that no more than 3 percent of the amount may be transferred to category (b) of Item 2240-001-001 for personnel or contracted services	2,000,000
2240-106-001—For local assistance, Department of Housing and Community Development, for deposit in the Rental Housing Construction Fund, to be expended for the rural rental assistance program pursuant to Chapter 9 (commencing with Section 50735) of Part 2 of Division 31, of the Health and Safety Code, provided that no more than 3 percent of the amount may be transferred to category (b) of Item 2240-001-001 for personnel or contracted services	5,000,000
2240-107-001—For local assistance, Department of Housing and Community Development, to be expended for special housing programs for the disabled pursuant to Chapter 7 (commencing with Section 50680) of Part 2 of Division 31 of the Health and Safety Code, provided that no more than 3 percent of the amount may be transferred to category (b) of Item 2240-001-001 for administration of contracted services	1,000,000

Item — Amount

2240-108-001—For local assistance, Department of Housing and Community Development, for deposit in the Self-Help Housing Fund, to be expended for self-help programs pursuant to Chapter 7.5 (commencing with Section 50691.1) of Part 2 of Division 31 of the Health and Safety Code, provided that no more than 3 percent of the amount may be transferred to category (b) of Item 2240-001-001 for personnel or contracted services 5,000,000

2240-109-001—For local assistance, Department of Housing and Community Development, for the development of migrant farm labor camp centers pursuant to subdivision (n) of Section 50406, and Section 50710, of the Health and Safety Code, provided that no more than 3 percent of the amount may be transferred to Category (b) of Item 2240-001-001 for personnel or contracted service 2,500,000

2240-111-001—For local assistance, Department of Housing and Community Development 8,000,000

Provisions:

1. Of the amounts appropriated by this item, $5,000,000 is to be for deposit in the emergency shelter programs pursuant to Chapter 11 (commencing with Section 50800) of the Health and Safety Code.
2. Of the amounts appropriated by this item, $3,000,000 shall be for deposit in the Housing Rehabilitation Loan Fund, for acquiring and rehabilitating residential hotels for the elderly and handicapped pursuant to paragraph (2) of subdivision (a) of Section 50661 of the Health and Safety Code.

2290-001-001—For transfer to the Insurance Fund upon written approval of the Department of Finance, to provide operating funds for support of the Department of Insurance on a monthly basis as needed for cash-flow purposes ..... (1,500,000)

Provisions:

1. The amount available for transfer pursuant to this item shall be a temporary line of credit advanced on a monthly basis as needed for cash-flow purposes to be repaid by the Insurance Fund from revenues received from operations. The loan shall be repaid, with interest, not later than June 30, 1986.

2290-001-217—For support of Department of Insurance, payable from the Insurance Fund 21,975,000

Schedule:

(a) 10-Regulation of Insurance Companies and Insurance Producers ..	21,010,000
(b) 20-Fraud Control	903,000
(c) 30-Tax Collection and Audit	162,000
(d) 40.01-Administration	4,683,000
(e) 40.02-Distributed Administration ..	—4,783,000

Item		Amount
Provisions:		
1. Pursuant to paragraph (3) of subdivision (a) of, and subdivision (c) of, Section 12975.8 of the Insurance Code, the balance remaining in the Insurance Fund at the end of the 1984–85 fiscal year shall be carried forward to the 1985–86 fiscal year to the extent necessary to cover expenditures and cash flow needs. Any remaining funds which are surplus to cash flow needs shall revert to the General Fund.		
2. The department is authorized to expend an amount not to exceed $200,000 for interest expense during the 1985–86 fiscal year. The department shall pay interest at the rate earned by the Pooled Money Investment Account. If interest expenses are less than $200,000, the difference shall revert to the Insurance Fund.		
3. No funds appropriated in Item 2290-001-217 shall be expended by the Department of Insurance to upgrade its existing computer system unless and until: (1) the Office of Information Technology has approved the department's feasibility study report and (2) 30 days advance notice of the planned expenditures has been submitted to the Chairperson of the Joint Legislative Budget Committee and chairpersons of the fiscal committees.		
4. Of the funds appropriated in this item, $300,000 shall be available for the purposes of increasing consumer services to the public.		
2320-001-317—For support of Department of Real Estate, payable from the Real Estate Fund		19,181,000
Schedule:		
(a) 100000-Personal Services	12,849,000	
(b) 300000-Operating Expenses and Equipment	4,963,000	
(c) Education and Research	672,000	
(d) Recovery Act	1,000,000	
(e) Reimbursements	−303,000	
2340-001-337—For support of Department of Savings and Loan, payable from the Savings Association Special Regulatory Fund		5,775,000
Schedule:		
(a) 100000-Personal Services	4,520,000	
(b) 300000-Operating Expenses and Equipment	1,255,000	
2340-002-337—For support of Department of Savings and Loan, payable from the Savings Association Special Regulatory Fund		289,000
Schedule:		
(a) 100000-Personal Services	215,000	
(b) 300000-Operating Expenses and Equipment	74,000	

Item		Amount
Provisions:		
1. The funds appropriated in this item shall fund six additional examiners for the examination of savings and loan associations. The department shall fill the examiner positions at a rate of one examiner for each three new savings and loan associations granted conditional insurance of accounts by the Federal Savings and Loan Insurance Corporation during the 1985–86 fiscal year.		
2600-001-042—For support of California Transportation Commission, for transfer to Item 2600-001-046, payable from the State Highway Account, State Transportation Fund		123,000
2600-001-046—For support of California Transportation Commission, payable from the Transportation Planning and Development Account, State Transportation Fund		1,022,500
Schedule:		
(a) Support	1,145,500	
(b) Amount payable from the State Highway Account, State Transportation Fund (Item 2600-001-042) ..	—123,000	
Provisions:		
1. The California Transportation Commission shall notify the chairpersons of the legislative fiscal committees and the Chairperson of the Joint Legislative Budget Committee not less than 30 days prior to expending any of the $170,000 appropriated for consulting and professional services for which specific justification was not provided to the Legislative Analyst, if the expenditures are pursuant to a contract exceeding $10,000. This notification shall include a statement as to the objective of the contract, a summary discussion of the work to be performed, and the time requirements and various cost elements for the contracted services.		
2660-001-041—For support of Department of Transportation, for transfer to Item 2660-001-042, payable from the Aeronautics Account, State Transportation Fund		1,955,000
2660-001-042—For support of Department of Transportation, payable from the State Highway Account, State Transportation Fund		739,340,000
Schedule:		
(a) 10-Aeronautics	2,016,000	
(b) Highways	871,614,000	
(1) 20.10-Rehabilitation	(66,766,000)	
(2) 20.20-Operational improvements	(88,369,000)	
(3) 20.30-Local assistance	(15,412,000)	
(4) 20.40-Program development	(17,572,000)	
(5) 20.50-New facilities	(156,405,000)	

Item		Amount
	(6) 20.60-Administration ..... (89,316,000)	
	(7) 20.70-Operations.. (46,376,000)	
	(8) 20.80-Maintenance ..... (391,398,000)	
(c)	30-Mass Transportation	53,134,000
(d)	40-Transportation Planning	9,458,000
(e)	50.01-Administration	99,853,000
(f)	50.02-Distributed Administration ..	−99,853,000
(g)	Reimbursements	−35,627,000
(h)	Amount payable from the Aeronautics Account, State Transportation Fund, (Item 2660-001-041)	−1,955,000
(i)	Amount payable from the Bicycle Lane Account, State Transportation Fund (Item 2660-001-045)	−10,000
(j)	Amount payable from the Transportation Planning and Development Account, State Transportation Fund (Item 2660-001-046)	−29,651,000
(k)	Amount payable from the Abandoned Railroad Account, State Transportation Fund (Item 2660-001-047)	−95,000
(*l*)	Amount payable from the Federal Trust Fund (Item 2660-001-890) ..	−129,544,000

Provisions:

1. For Program 20—Notwithstanding other provisions of law, up to 10 percent of any of the amounts scheduled within Item 2660-001-042, may be transferred to Item 2660-101-042 or Item 2660-301-042 only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.
2. For Program 20—Highways, funds appropriated by this item shall be available for support of those projects which have been included in a State Transportation Improvement Plan adopted by the California Transportation Commission.
3. For Program 20—The department shall notify the chairperson of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee at least 20 days prior to spending funds to expand activities above budgeted levels or to implement a new activity not identified in the budget, including any such expenditures to be funded through a transfer of money from other expenditure categories or programs, except in the case of emergency snow or storm

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damage work increases.

4. For Program 20—$7,500,000 appropriated in this item may be encumbered for the procurement of computer-aided design and drafting (CADD) system equipment only after the Office of Information Technology (OIT) has approved the feasibility study report for the 1985–86 phase of the CADD project, and has reviewed a cost-benefit analysis of the lease-purchase versus purchase alternatives for the equipment, and has provided the Joint Legislative Budget Committee with this information and its recommendations. The amount spent shall not exceed the amount approved by OIT in its review. Any approved amount in excess of the appropriation is authorized for expenditure no sooner than 30 days after the Director of Finance has notified the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees, and when the proper funding is secured.
5. For Program 20—The department shall report to the Joint Legislative Budget Committee no later than May 15, 1986, on all highway roadside maintenance contracts in effect, providing information on the cost of each contract, the service provided, the duration of the contract, and the amount in personnel-years equivalent and total cost to the department had the service been provided by department staff. The report shall also identify the total amount allocated for contracted roadside maintenance work for the year. Any amount not expended or obligated for such contracted services shall be reverted by June 30, 1986.
6. The department shall not encumber any of the $1,635,000 included in this appropriation for distributed data processing (DDP) until a final feasibility study report (FSR) has been submitted to, and approved by the Office of Information Technology. At a minimum, the FSR shall address (a) how this project integrates with other computer automation projects, (2) the computer and personnel needs on a statewide basis, and (3) the impact the DDP project will have on the operation of the Teale Data Center.
7. Of the amount appropriated in toll bridge funds, $200,000 shall be for a study to identify the traffic patterns of westbound trucks on the San Francisco Bay Bridge and its East Bay approaches. The department shall consult with the Metropolitan Transportation Commission and the San Francisco Port Authority in the design of the study and in the review and approval of the final report by March 15, 1986.

2660-001-045—For support of Department of Transportation, for transfer to Item 2660-001-042, payable from the Bicycle Lane Account, State Transportation Fund 10,000

Item	Amount
2660-001-046—For support of Department of Transportation, for transfer to Item 2660-001-042, payable from the Transportation Planning and Development Account, State Transportation Fund.....	29,651,000

Provisions:

1. Notwithstanding any other provisions of law, the Department's Transit Management Assistance and State Transit Assistance activities, which are not payable from federal funds, shall be payable from the funds made available pursuant to Sections 99313 and 99314 of the Public Utilities Code.
2. For Program 30—$11,984,000 of the funds appropriated in this item shall be allocated by the California Transportation Commission pursuant to Section 99316 of the Public Utilities Code.
3. For Program 30—None of the $350,000 appropriated in this item for rail vehicle handicapped accessibility device research and development shall be encumbered unless and until the department includes in this project a study of the cost-effectiveness of alternative methods, including the use of dial-a-ride services, of providing handicapped transportation within the transportation corridor served by the San Francisco Peninsula Commute Rail Service.

2660-001-047—For support of Department of Transportation, for transfer to Item 2660-001-042, payable from the Abandoned Railroad Account, State Transportation Fund	95,000
2660-001-890—For support of Department of Transportation, for transfer to Item 2660-001-042, payable from the Federal Trust Fund.....	129,544,000

Provisions:

1. For Program 20—Notwithstanding other provisions of law, up to 10 percent of any of the amounts scheduled within, Item 2660-001-890, may be transferred to Item 2660-101-890 or Item 2660-301-890 only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.
2. For Program 20—Highway Transportation, funds appropriated in this item shall be available for support of those projects which have been included in a State Transportation Improvement Plan adopted by the California Transportation Commission.
3. For Program 20—Highway Transportation, for purposes of the Streets and Highways Code, all expenditures from this item shall be deemed to be expenditures from the State Highway Account, State Transportation Fund.

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4. For Program 20—Highway Transportation, federal funds received may be from any federal source, and shall be deposited in the Federal Trust Fund. Any federal reimbursements shall be credited to the account from which the expenditures were originally made.	
5. Any state funds appropriated for any activity for which funds are no longer needed because of the receipt of federal funds in excess of the amount appropriated by this act for such an activity, shall not be encumbered for any purpose and shall revert to the unappropriated surplus of the fund from which the appropriation was made.	
2660-011-041—For transfer by the State Controller from the Aeronautics Account, State Transportation Fund (041), to the Transportation Planning and Development Account, State Transportation Fund (046), as prescribed by Section 21682.5 of the Public Utilities Code	(30,000)
2660-021-042—For transfer by the State Controller from the State Highway Account, State Transportation Fund (042), to the Transportation Planning and Development Account, State Transportation Fund (046) as prescribed by Section 194 of the Streets and Highways Code	(10,900,000)
2660-031-042—(a) There is hereby appropriated, from the reserve account established pursuant to subdivision (b) of Section 71 of Chapter 161 of the Statutes of 1979 in the State Highway Account in the State Transportation Fund, to the State Highway Account, for expenditure by the Department of Transportation, an amount sufficient to fund the appropriations to the Department of Transportation made by this act. It is the intent of the Legislature that all available revenues in the State Highway Account, including the reserve account, be used for the specific purposes authorized and in the order of receipt (first available—first used). (b) There is hereby appropriated, on June 30, 1986, to the reserve account established pursuant to subdivision (b) of Section 71 of Chapter 161 of the Statutes of 1979 in the State Highway Account, all money in or due to the State Highway Account on the date which is not appropriated as of that date, to be available for expenditure only upon appropriation in the Budget Act.	
2660-041-047—For transfer by the State Controller from the Abandoned Railroad Account, State Transportation Fund, to the Transportation Planning and Development Account (046), State Transportation Fund:	

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The Controller shall transfer the unencumbered balance remaining as of June 30, 1985, to the Transportation Planning and Development Account, with the exception of $95,000 appropriated in Item 2660-001-047 of this act and $423,500 appropriated in Item 2660-301-047 of the Budget Act of 1983.		
2660-051-001—For transfer by the State Controller from the General Fund to the Transportation Planning and Development Account, State Transportation Fund		10,000,000
2660-101-041—For local assistance, Department of Transportation, for transfer to Item 2660-101-042, payable from the Aeronautics Account, State Transportation Fund		1,000,000
2660-101-042—For local assistance, Department of Transportation, payable from the State Highway Account, State Transportation Fund		113,316,652
Schedule:		
(a) 10-Aeronautics	1,000,000	
(b) 20-Highway Transportation	0	
(1) 20.30-Local Assistance	(273,436,652)	
(c) 30-Mass Transportation	123,965,000	
(d) 40-Transportation Planning	10,932,000	
(dx) Reimbursements	−860,000	
(e) Amount payable from the Aeronautics Account, State Transportation Fund (Item 2660-101-041)	−1,000,000	
(f) Amount payable from the Bicycle Lane Account, State Transportation Fund (Item 2660-101-045)	−620,000	
(g) Amount payable from the Transportation Planning and Development Account, State Transportation Fund (Item 2660-101-046)	−26,153,000	
(h) Amount payable from the Federal Trust Fund (Item 2660-101-890)	−267,484,000	
Provisions:		
1. For Program 20—Notwithstanding other provisions of law, up to 10 percent of any amounts scheduled within Item 2660-101-042 may be transferred to Item 2660-001-042 or Item 2660-301-042 only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.		
2. For Program 30—Mass Transportation, Article XIX, Transit Guideways—The amount allocated in the 1985–86 fiscal year by the California Transportation Commission shall be available for expenditure or reallocation by the California Transportation Commission during the 1985–86, 1986–87 and 1987–88 fiscal years.		

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2660-101-045—For local assistance, Department of Transportation, for transfer to Item 2660-101-042, payable from the Bicycle Lane Account, State Transportation Fund	620,000
2660-101-046—For local assistance, Department of Transportation, for transfer to Item 2660-101-042, payable from the Transportation Planning and Development Account, State Transportation Fund	26,153,000

Provisions:

1. For Program 30—Mass Transportation, transit capital improvements, the amount allocated in the 1985–86 fiscal year by the California Transportation Commission shall be available for expenditure or reallocation by the California Transportation Commission during the 1985–86, 1986–87 and 1987–88 fiscal years.

2660-101-890—For local assistance, Department of Transportation, for transfer to Item 2660-101-042, payable from the Federal Trust Fund	267,384,000

Provisions:

1. For Program 20—Notwithstanding other provisions of law, up to 10 percent of the amounts scheduled within Item 2660-101-890, may be transferred to Item 2660-001-890 or Item 2660-301-890 only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.
2. For Program 20—Highway Transportation, for purposes of the Streets and Highways Code, all expenditures from this item shall be deemed to be expenditures from the State Highway Account, State Transportation Fund.
3. For Program 20—Highway Transportation, federal funds received may be from any federal source, and shall be deposited in the Federal Trust Fund. Any federal reimbursements shall be credited to the account from which the expenditures were originally made.

2660-301-042—For Capital Outlay, Department of Transportation, Program 20—Highway Transportation, payable from the State Highway Account, State Transportation Fund	209,264,000

Schedule:

(a) 20-Highway Transportation	0
20.10-Rehabilitation	(221,374,000)
20.20-Operational Improvements	(188,135,000)
20.30-Local Assistance	(60,000,000)
20.50-New Facilities	(1,034,198,000)
(b) 30-Mass Transportation	14,038,000
(c) Reimbursements	−184,824,000
(d) Amount payable from the Federal Trust Fund (Item 2660-301-890)	−1,123,657,000

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Provisions:

1. For Program 20—Notwithstanding other provisions of law, up to 10 percent of the amounts within Item 2660-301-042 may be transferred to Item 2660-101-042 or Item 2660-001-042 of this act only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.
2. For Program 20—Highway Transportation, funds appropriated by this item shall be available for allocation by the California Transportation Commission to those projects which have been included in a State Transportation Improvement Plan adopted by the commission.
3. For Program 20—The department shall identify all major highway capital outlay projects in the annual State Transportation Improvement Program (STIP), including all projects funded by other-than-state sources when the department will perform the project development. Locally funded and designed projects having no impact on the operation of a state highway facility do not have to be identified in the STIP.
4. For Program 20—For each capital outlay appropriation, the department shall determine for reversion the difference between the appropriation and the total amount needed for encumbered projects, encumbered right-of-way, and projects still to be scheduled for encumbrance against the appropriations. On or before October 1 of each year, the department shall submit to the Controller the estimated amounts to be reverted as of June 30 of the same year, from the two prior fiscal year appropriations.

2660-301-890—For Capital Outlay, Department of Transportation, for transfer to Item 2660-301-042, payable from the Federal Trust Fund 1,123,657,000

Provisions:

1. For Program 20—Notwithstanding other provisions of law, up to 10 percent of the amounts scheduled within Item 2660-301-890, may be transferred to Item 2660-101-890 or Item 2660-001-890 only under emergency situations, for implementation of cost savings programs, or to maximize the use of federal funds. These transfers shall require the prior approval of the California Transportation Commission and the Department of Finance.
2. For Program 20—Highway Transportation, funds appropriated by this item shall be available for allocation by the California Transportation Commission to those projects which have been included in a State Transportation Improvement Plan adopted by the commission.

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3. For Program 20—Highway Transportation, for purposes of the Streets and Highways Code, all expenditures from this item shall be deemed to be expenditures from the State Highway Account, State Transportation Fund.
4. For Program 20—Highway Transportation, federal funds received may be from any federal source, and shall be deposited in the Federal Trust Fund. Any federal reimbursements shall be credited to the account from which the expenditures were originally made.
5. For Program 20—For each Capital Outlay appropriation, the department shall determine for reversion the difference between the appropriation and the total amount needed for encumbered projects, encumbered right-of-way and projects still to be scheduled for encumbrance against the appropriations. On or before October 1 of each year, the department shall submit to the State Controller the estimated amounts to be reverted as of June 30 of the same year, from the two prior fiscal year appropriations.

2660-311-042—For Capital Outlay, Department of Transportation, payable from the State Highway Account, State Transportation Fund 1,253,000

Schedule:

(4) 20.10.010.199—Minor projects..... 1,253,000

Provisions:

1. For Program 20—Highway Transportation, funds appropriated by this item shall be available for allocation by the California Transportation Commission, in lieu of the Public Works Board, pursuant to the provisions set forth in Sections 167 and 183 of the Streets and Highways Code.
2. For Program 20—Highway Transportation, the California Transportation Commission may allocate funds to minor projects pursuant to the provisions set forth in Section 183 of the Streets and Highways Code.
3. For Program 20—Highway Transportation, savings on projects within this item may be used by the California Transportation Commission to augment other projects or the minor project amount within this item.
4. For Program 20—Highway Transportation, up to 20 percent of this item may be transferred from Item 2660-301-042, of this act to enable the California Transportation Commission to allocate supplemental funds to projects in this item. The transfer may only be made with the approval of the commission. Also, the Department of Finance shall be notified of the transfer prior to the commission approving any transfer and allocating such funds to any project.

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2660-490—Reappropriation, Department of Transportation. Notwithstanding any other provisions of law, the unencumbered and unliquidated balances, or the portion thereof as specified in this item, on the effective date of this act, of the appropriation provided in the following citations, are reappropriated for the purposes provided for in such appropriations and shall be available for expenditure until June 30, 1986.

890—Federal Trust Fund

(1) Item 2660-001-890(c) Budget Act of 1984.

042—State Highway Account

(1) Item 2660-001-042, Budget Act of 1984 13,396,000

(2) Item 2660-101-042, Budget Act of 1984 24,700,000

(3) Chapter 262, Statutes of 1982 38,500,000

046—Transportation and Planning Development Account

(1) Item 2660-101-046, Budget Act of 1981 505,000

(2) Item 2660-301-046, Budget Act of 1982 2,500,000

Provisions:

1. It is the intent of the Legislature that the Department of Transportation move toward full implementation of the plan to institute passenger rail service between San Francisco and Monterey by proceeding with the following:
   (a) Upgrade the tracks to meet all safety requirements;
   (b) Contract with Southern Pacific Railroad for operation of the equipment;
   (c) Pursue plans for acquiring operating equipment, either through lease or by whatever means is feasible;
   (d) Enter into agreement with local agencies along the route to share equally with the state in the operating subsidies of the service (current law requires that 55 percent of the cost of rail passenger service be covered by the farebox);
   (e) Report quarterly to the Legislature on the progress being made to implement the service, with the first report due October 1, 1985.

2660-491—Reappropriation—Department of Transportation for Program 20—Highway Transportation. Notwithstanding any other provisions of law, and in accordance with subdivision (c), Section 16304 of the Government Code, the unliquidated encumbrances of prior year local assistance appropriations from the State Highway Account, State Transportation Fund are reappropriated without regard to fiscal year, to enable continuing liquidation of these encumbrances, and to allow project

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savings to be available for other local assistance highway projects previously funded from the same appropriation.		
2660-492—Notwithstanding any other provisions of law, the unliquidated encumbrances of the capital outlay appropriations provided in the following citations, plus whatever portions thereof which are specified in this item, are continued for expenditure until June 30, 1986. The funds continued for expenditure from the following citations shall be available for allocation by the California Transportation Commission to any project whether or not included in an adopted State Transportation Improvement Program:		
042—For Program 20—Highway Transportation, payable from the State Highway Account, State Transportation Fund		
(1) Item 453, Budget Act of 1979—$200,000		
(2) Item 513, Budget Act of 1980—$500,000		
(3) Item 266-301-042, Budget Act of 1981—$400,000		
(4) Item 2660-301-042, Budget Act of 1982—$1,000,000		
890—For Program 20—Highway Transportation, payable from the Federal Trust Fund		
(1) Item 266-301-890, Budget Act of 1981—$600,000		
(2) Item 2660-301-890, Budget Act of 1982—$2,000,000		
2660-495—Reversion, Department of Transportation. As of June 30, 1985, the unencumbered balance of the appropriations provided in the following citations, or the portions thereof as specified in this item, shall revert to the unappropriated surplus of the fund from which the appropriation was made:		
042—State Highway Account, State Transportation Fund:		
(1) Item 2660-301-042, Budget Act of 1983—$30,485,000		
(2) Item 2660-301-042, Budget Act of 1984—$200,000		
2700-001-044—For support of Office of Traffic Safety, payable from the Motor Vehicle Account, State Transportation Fund		251,000
Schedule:		
(a) Support	7,896,000	
(b) Reimbursements	−100,000	
(c) Amount payable from the First Offender Program Evaluation Fund (Item 2700-001-464)	−550,000	
(d) Amount payable from the Federal Trust Fund (Item 2700-001-890)	−6,995,000	
2700-001-464—For support of Office of Traffic Safety, for transfer to Item 2700-001-044, payable from the First Offender Program Evaluation Fund		550,000

Item		Amount
Provisions:		
1. The amount of any contract awarded by the Office of Traffic Safety for an evaluation of first offender programs shall be subject to the availability of funds in the First Offender Program Evaluation Fund in the 1985–86 fiscal year.		
2700-001-890—For support of Office of Traffic Safety, for transfer to Item 2700-001-044, payable from the Federal Trust Fund, not subject to the provisions of Section 28		6,995,000
2700-101-890—For local assistance, Office of Traffic Safety, payable from the Federal Trust Fund, not subject to the provisions of Section 28		4,663,000
2720-001-044—For support of Department of the California Highway Patrol, payable from the Motor Vehicle Account, State Transportation Fund		389,442,500
Schedule:		
(a) 10-Traffic Management	386,317,109	
(b) 20-Regulation and Inspection	34,705,251	
(c) 30-Vehicle Ownership Security	8,166,501	
(d) 40.01-Administration	83,443,639	
(e) 40.02-Distributed Administration	−83,510,000	
(f) Reimbursements	−7,217,000	
(g) Amount payable from the California Highway Patrol Law Enforcement Account, State Transportation Fund (Item 2720-001-050)	−32,250,000	
(h) Amount payable from the Federal Trust Fund (Item 2720-001-890)	−213,000	
Provisions:		
1. None of the $1,000,000 provided as part of a gasoline reserve shall be expended unless and until authorized in writing by the Director of Finance.		
2. None of the funds appropriated for new electronic data processing project costs in this item shall be expended until the Department of Finance, Office of Information Technology (OIT), has reviewed and approved a feasibility study report for each of the projects.		
3. None of the $731,000 appropriated for word processing equipment shall be encumbered by the California Highway Patrol sooner than 30 days after an associated feasibility study report has been submitted to the Chairman of the Joint Legislative Budget Committee and the chairpersons of the legislative fiscal committees. The feasibility study report shall have been approved by the Department of Finance and prepared in accordance with Sections 4921 to 4928, inclusive, of the State Administrative Manual.		
2720-001-050—For support of Department of the California Highway Patrol, for transfer to Item 2720-001-044, payable from the California Highway Patrol Law Enforcement Account, State Transportation Fund		32,250,000

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Provisions:

1. Notwithstanding the provisions of Chapter 933, Statutes of 1981 [Section 9250.9(c)], any unencumbered amount remaining in the California Highway Patrol Law Enforcement Account in the State Transportation Fund as of July 1, 1986, shall be transferred to the Motor Vehicle Account in the State Transportation Fund.

2720-001-890—For support of Department of the California Highway Patrol, for transfer to Item 2720-001-044, payable from the Federal Trust Fund 213,000

2720-011-044—For payments of deficiencies in appropriations for the Department of the California Highway Patrol, Program 97 Unallocated, which may be authorized by the Director of Finance, with the consent of the Governor, payable from the Motor Vehicle Account, State Transportation Fund .. (2,000,000)

Provisions:

1. The Director of Finance shall report allocations from this item in the same manner as required for reporting allocations from Item 9840-001-494 of this act.

2720-021-044—For Department of the California Highway Patrol, for advance authority for the department to incur automotive equipment purchase obligations in an amount not to exceed $5,000,000 during the 1985–86 fiscal year, for delivery beginning in the 1986–87 fiscal year, payable from the Motor Vehicle Account, State Transportation Fund (5,000,000)

2720-301-044—For Capital Outlay, Department of California Highway Patrol, payable from the Motor Vehicle Account, State Transportation Fund 4,566,000

Schedule:

(1)	50.01.001-Minor Projects.....	848,000
(2)	50.10.018-Golden Gate Division Communications Center and Division Office—Working Drawings ..	228,000
(3)	50.12.102-Clear Lake/Kelseyville —Purchase of Leased Facility—Acquisition.....	684,000
(4)	50.12.103-Alturas—Purchase of Leased Facility—Acquisition	978,000
(6)	50.41.401-Mariposa—Purchase of Leased Facility—Acquisition	702,000
(7)	50.82.802-Ontario—Purchase of Leased Facility—Acquisition	1,086,000
(8)	50.90.900-Various Areas—Property Options and Appraisals	40,000

Provisions:

1. In the event that a Purchase Option is not obtained by October 1, 1985, the funds appropriated in category 7 for the purchase of a leased facility shall revert to the Motor Vehicle Account, State Transportation Fund.

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2. In lieu of the total of 50 personnel specified in Provision 4, Item 2720-301-044, Budget Act of 1984, the Inland Division's office and parking facilities in San Bernardino, which are to be leased with a purchase option agreement, may be of adequate size for a staff of 79 personnel.

2720-495—Reversion, Department of the California Highway Patrol. Notwithstanding any other provision of law, as of June 30, 1985, the undisbursed balance in excess of any unliquidated encumbrances and any such balance on deposit in the Architecture Revolving Fund for the appropriations provided in the following citation shall revert to the unappropriated surplus of the fund from which the appropriation was made:

044—Motor Vehicle Account, State Transportation Fund

(1) Item 2720-301-044(2), Budget Act of 1984—Property Options and Appraisals—Various Areas

2740-001-001—For support of Department of Motor Vehicles, for transfer to Item 2740-001-044 68,000

Provisions:

1. The funds appropriated from this item are for anatomical donor designation program.

2740-001-044—For support of Department of Motor Vehicles, payable from the Motor Vehicle Account, State Transportation Fund 197,458,490

Schedule:

(a) Personal Services	204,863,000
(b) Operating Expenses and Equipment	88,446,490
(c) Reimbursements	−6,878,000
(d) Amount payable from the General Fund (Item 2740-001-001)	−68,000
(e) Amount payable from New Motor Vehicle Board Account (Item 2740-001-054)	−760,000
(f) Amount payable from Motor Vehicle License Fee Account, Transportation Tax Fund (Item 2740-001-064)	−85,160,000
(g) Amount payable from the State Bicycle License and Registration Fund (Item 2740-001-378)	−29,000
(i) Amount payable from the Harbors and Watercraft Revolving Fund (Item 2740-001-516)	−2,956,000

Provisions:

1. None of the funds appropriated for new electronic data processing projects shall be expended until the Department of Finance, Office of Information Technology (OIT) has reviewed and approved a feasibility study for each of the projects.

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2. None of the funds appropriated for purchase and implementation of a new telephone system shall be expended until the Department of General Services has reviewed and approved a feasibility study for the project.
3. Of the $4,803,000 appropriated for overtime, $2,803,000 shall not be expended unless and until the department submits 20 days prior notice to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, of the remaining overtime needed to return the registration backlog to a normal level.

2740-001-054—For support of Department of Motor Vehicles, for transfer to Item 2740-001-044, payable from the New Motor Vehicle Board Account, State Transportation Fund 760,000

2740-001-064—For support of Department of Motor Vehicles, for transfer to Item 2740-001-044, payable from the Motor Vehicle License Fee Account, Transportation Tax Fund 85,160,000

Provisions:
1. The funds appropriated from this item are as provided by Section 11003 of the Revenue and Taxation Code.

2740-001-378—For support of Department of Motor Vehicles, for transfer to Item 2740-001-044, payable from the State Bicycle License and Registration Fund 29,000

Provisions:
1. The funds appropriated from this item are as provided by Section 39001 of the Vehicle Code.

2740-001-516—For support of Department of Motor Vehicles, for transfer to Item 2740-001-044, payable from the Harbors and Watercraft Revolving Fund 2,956,000

Provisions:
1. The funds appropriated from this item are for undocumented vessel registration and fee collection.

2740-011-044—For payment of deficiencies in appropriations for the Department of Motor Vehicles which may be authorized by the Director of Finance, with the consent of the Governor, payable from the Motor Vehicle Account, State Transportation Fund..... (1,000,000)

Provisions:
1. The Director of Finance shall report allocations from this appropriation in the same manner as required for reporting allocations from Item 9840-001-494 of this act.

2740-301-044—For Capital Outlay, Department of Motor Vehicles, payable from the Motor Vehicle Account, State Transportation Fund..... 3,109,000

Schedule:
(1) 71.01.000-Minor Projects..... 532,000
(2) 71.01.010-Statewide-Property appraisals and purchase options..... 40,000

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(3) 71.03.010-Sacramento Headquarters Building—Construction of fire and life safety retrofits 341,000

(4) 71.06.010-Redding—Acquisition and preliminary plans for office building and parking facility 518,000

(5) 71.07.010-San Gabriel—Acquisition and preliminary plans for office building and parking facility 792,000

(6) 71.08.010-Yuba City—Acquisition and preliminary plans for office building and parking facility 284,000

(7) 71.09.010-Santa Maria—Preliminary plans, working drawings and construction of building addition 290,000

(8) 71.10.010-Santa Ana—Preliminary plans, working drawings and construction of building addition..... 312,000

Provisions:

1. The funds appropraited in category (2) shall be used in connection with projects which are to be included in the budget submitted by the Governor for the 1986–87 fiscal year.

2740-490—Reappropriation, Department of Motor Vehicles. Notwithstanding any other provision of law, on the effective date of this act, the unencumbered balances of the appropriations provided in the following citations are reappropriated for the purposes provided for in the appropriations and shall be available for expenditure until June 30, 1986:

044—Motor Vehicle Account, State Transportation Fund:

(1) Item 2740-301-044(3), Budget Act of 1984, 70.18.010—Pomona—Acquisition and preliminary plans for office building and parking facility.

2780-001-683—For support of Stephen P. Teale Data Center, Business, Transportation and Housing Agency, payable from the Stephen P. Teale Data Center Revolving Fund 51,861,801

Schedule:

(a) Support 51,896,801

(b) Reimbursements ..... −35,000

Provisions:

1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the data center in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each

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instance determine.

2. Of the funds appropriated in this item, $1,031,000 shall be expended to purchase equipment currently leased under master rental agreement numbers 6-83-70-07, 6-80-70-5, and 6-81-70-02 and $581,000 shall be expended to purchase microprocessors. These funds shall not be expended for any other purpose.

RESOURCES

3110-001-001—To the Resources Agency, Special Resources Programs, Program 30—Sea Grant Program, for grants to public and private higher education for use as a maximum of two-thirds of the local matching share for projects under the National Sea Grant College and Program Act of 1966. 500,000

Provisions:

1. The amount appropriated in this item is in lieu of any amount which would otherwise be received pursuant to Section 6217 of the Public Resources Code.

3110-101-001—For local assistance, Special Resources Program, Program 10—Tahoe Regional Planning Agency 674,000

Provisions:

1. Of the amount appropriated by this item, $18,000 shall only be used for a program to increase the public awareness of the new regional plan.
2. Of the amount appropriated by this item, $23,000 shall only be used for a study on scenic resource management.
3. Of the amount appropriated by this item, $42,500 shall not be available for encumbrance unless and until a preliminary injunction issued by the United States District Court for the Eastern District of California has been dissolved or modified to allow the Tahoe Regional Planning Agency to resume issuing new building permits. If this event occurs on or after August 1, 1985, the Director of Finance shall allocate a portion of this $85,000 to the Tahoe Regional Planning Agency, and the size of the allocation shall be based upon the actual required workload in the remainder of the fiscal year. The Director of Finance shall notify the chairpersons of the Joint Legislative Budget Committee and the legislative fiscal committees of any allocation under this provision.
4. In the event the State of Nevada enacts a statute which would have the effect of dissolving the Tahoe Regional Planning Compact, as provided in Article 10 thereof, the unexpended portion of any funds appropriated by this item shall be transferred to the Resources Agency and made available for expenditure by the California

Item		Amount
Tahoe Regional Planning Agency, for the purpose of enforcing terms and conditions of all permits issued by the Tahoe Regional Planning Agency which are applicable to the California portion of the Lake Tahoe Basin.		
3125-001-001—For support of California Tahoe Conservancy		528,000
Schedule:		
(a) 100000-Personal Services	471,000	
(b) 300000-Operating Expenses and Equipment	357,000	
(c) Amount Payable from the Lake Tahoe Acquisitions Fund (Item 3125-001-720)	−300,000	
3125-001-720—For support of the California Tahoe Conservancy, for transfer to Item 3125-001-001, payable from the Lake Tahoe Acquisitions Fund		300,000
3125-101-140—For local assistance, California Tahoe Conservancy, payable from the Environmental License Plate Fund		377,000
Schedule:		
(a) Grant to Placer County for an erosion control project	177,000	
(b) Grant to El Dorado County for an erosion control project	200,000	
3125-101-190—For local assistance, California Tahoe Conservancy, payable from the Energy and Resources Fund		2,000,000
Provisions:		
1. The funds appropriated by this item shall be used for projects determined by the conservancy to have the greatest potential for reducing or minimizing the effects of soil erosion and discharge of sediment into the waters of the Lake Tahoe region, including restoration of disturbed wetlands and stream environment zones.		
3125-301-720—For Capital Outlay, California Tahoe Conservancy, payable from the Lake Tahoe Acquisitions Fund		10,000,000
Schedule:		
(a) 50.20.001-Land acquisition pursuant to subdivision (a) of Section 66957 of the Government Code	7,500,000	
(b) 50.20.002-Land acquisition pursuant to subdivisions (a), (b), and (c) of Section 66957 of the Government Code	2,500,000	
Provisions:		
1. The acquisition of real property or interests with funds appropriated by this item is not subject to the Property Acquisition Law when the value is less than $250,000 and, therefore, is not subject to Public Works Board approval.		

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2. Expenditures of funds for grants to public agencies and grants to nonprofit organizations, as authorized by subdivision (a) of Section 66907.7 of the Government Code, are exempt from Public Works Board review.

3150-101-001—To the Resources Agency for local assistance, Special Resources Programs, for subvention to the California Tahoe Regional Planning Agency 1,000

Provisions:

1. Funds appropriated by this item are intended by the Legislature for the express purpose of reactivating the California Tahoe Regional Planning Agency, as provided in Section 67131 of the Government Code.
2. Funds appropriated by this item shall be available for expenditure only in the event that the State of Nevada enacts a statute which would have the effect of dissolving the Tahoe Regional Planning Compact, as provided in Article 10 thereof.

3300-001-021—For loans to the State Assistance Fund for Energy, California Business and Industrial Development Corporation to be disbursed by the State Controller pursuant to Sections 32820 through 32823 of the Financial Code, payable from the State Energy Loan Fund Account, General Fund 250,000

3340-001-001—For support of California Conservation Corps 34,432,000

Schedule:

(a) 10.10-Orientation and Training Center	3,020,000
(b) 10.20-Base and Fire Centers.....	36,574,000
(c) 10.30-Energy Program	2,328,000
(d) 10.40-Nonresidential Program	4,069,524
(e) 20.01-Administration	3,944,476
(f) 20.02-Distributed Administration ..	−3,826,000
(g) Reimbursements	−6,683,000
(h) Amount payable from the Energy Resources Programs Account, General Fund (Item 3340-001-465)	−4,995,000

Provisions:

1. Of the funds appropriated for this item, $1,900,000 shall be for the California Conservation Corps to contract with existing nonresidential corps for the continuation of the programs without further proposal or bidding requirements, provided that the contractors meet the provisions specified in their contracts that end June 30, 1985. The California Conservation Corps may add additional requirements to the contracts for the 1985–86 fiscal year. Funds not expended under this provision may be transferred to Provision 2.

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2. Of the funds appropriated for this item, $2,000,000 shall be for expansion of the nonresidential program, with locations to be determined by the California Conservation Corps. Priority shall be given to sites in Central and Southern California.
3. Up to 6.5 personnel-years are authorized, if necessary to implement the $2,000,000 expansion of the nonresidential program (Chapter 3.5 (commencing with Section 14400) of Division 12 of the Public Resources Code). The CCC shall contract for the $2,000,000 expansion, unless it determines that it is most effective to expand the nonresidential program utilizing its own staff. In that event, up to 18 additional personnel-years shall be authorized, with the additional personnel-years to be funded from the $2,000,000 augmentation in Provision 2.

   The CCC shall notify the Department of Finance, the Joint Legislative Budget Committee, and the Department of Personnel Administration of the number of personnel-years necessary to implement the nonresidential program expansion.
4. The California Conservation Corps shall purchase 15 cabs and chassis for crew-carrying vehicles (out of the 27 vehicles authorized in the 1985–86 Governor's Budget) from the California Department of Forestry for an amount not to exceed $450,000. It is the intent of the Legislature that the California Conservation Corps shall not spend more than the California Department of Forestry's actual replacement cost for these cabs and chassis for crew-carrying vehicles.
5. Of the funds appropriated in this item, $100,000 is available to the Corps for crew members to work along the trail in the Sierra and Sequoia Forests from Garlic Meadow Creek to the Little Tehipite Valley along the Middle Fork of the Kings River. This amount is available contingent upon the request, cooperation, and supervision of the project by the United States Forest Service.

3340-001-465—For support of California Conservation Corps, for transfer to Item 3340-001-001, payable from the Energy Resources Programs Account, General Fund 4,995,000

3340-301-036—For Capital Outlay, California Conservation Corps, payable from the Special Account for Capital Outlay 5,584,000

Schedule:

(1) 30.10.999-Minor projects	584,000
(2) 30.30.001—Fricot City Training Academy—acquisition	5,000,000

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Provisions:

1. (a) In conducting an appraisal of the training academy, the Office of Real Estate Services of the Department of General Services shall take into consideration the extent to which the facilities comply with all applicable: (1) fire and life safety codes, as determined by an onsite inspection and written report by the State Fire Marshal and; (2) structural safety codes, as determined by an onsite inspection and written report by the Structural Safety Section of the Office of the State Architect or by a licensed structural engineer.

(b) Prior to acquiring this facility, the Department of General Services shall certify that the owner of the property has made all necessary sewage plant improvements to comply permanently with the current requirements of the Central Valley Regional Water Quality Control Board.

3340-490—Reappropriation, California Conservation Corps. Notwithstanding any other provisions of law, the unencumbered balances, on the effective date of this act, of the appropriations provided in the following citations are reappropriated for the purposes provided for in the appropriations, and shall be available for expenditure until June 30, 1986:

036—Special Account for Capital Outlay

(1) Item 3340-301-036 (2), Budget Act of 1984, 30.30.010 Greenwood Solar Center, Working Drawings and Construct barracks and recreation center.

3360-001-031—For support of State Energy Resources Conservation and Development Commission, for transfer to Item 3360-001-465, payable from the State Agricultural and Forestry Residue Utilization Account, General Fund 4,700,000

Provisions:

1. Notwithstanding Section 16304.1 of the Government Code, the funds appropriated by this item shall be available for liquidation of encumbrances until June 30, 1989.

3360-001-033—For support of State Energy Resources Conservation and Development Commission, for transfer to Item 3360-001-465, payable from the State Energy Conservation and Assistance Account, General Fund 11,000,000

Provisions:

1. Notwithstanding Section 16304.1 of the Government Code, the funds appropriated by this item shall be available for liquidation of encumbrances until June 30, 1989.

3360-001-044—For support of State Energy Resources Conservation and Development Commission, for transfer to Item 3360-001-465, payable from the Motor Vehicle Account, State Transportation Fund .. 90,000

Item			Amount
3360-001-465—For support of State Energy Resources Conservation and Development Commission, payable from the Energy Resources Programs Account, General Fund			23,540,000
Schedule:			
(a) 100000-Personal Services		15,137,000	
(b) 300000-Operating Expenses and Equipment		11,752,000	
(c) Special Items of Expense		17,831,000	
(1) Schools and hospitals	9,000,000		
(2) Streetlight conversion	2,000,000		
(3) Solar energy and energy conservation bank	2,000,000		
(4) Agricultural and Forestry Residue Utilization projects	4,700,000		
(5) Siting and Permit assistance	131,000		
(d) Amount payable from the State Agricultural and Forestry Residue Utilization Account, General Fund (Item 3360-001-031)		−4,700,000	
(e) Amount payable from the State Energy Conservation Assistance Account, General Fund (Item 3360-001-033)		−11,000,000	
(f) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 3360-001-044)		−90,000	
(g) Amount payable from the Energy Account, Energy and Resources Fund (Item 3360-001-189(d), Budget Act of 1982 as reappropriated by Item 3360-490, Budget Act of 1985)		−1,688,000	
(h) Amount payable from the Federal Trust Fund (Item 3360-001-890)		−3,702,000	

Provisions:

1. Notwithstanding Section 16304.1 of the Government Code, funds made available pursuant to the following appropriations shall be available for liquidation of encumbrances until the dates indicated:

   Budget Act of 1982;
   Item 3360-101-189, June 30, 1986
   Item 3360-001-890(b), June 30, 1986
   Item 3360-001-189(b), June 30, 1987
   Budget Act of 1983;
   Item 3360-001-890(f), June 30, 1987
   Item 3360-001-033(c), June 30, 1988
   Item 3360-001-890(b), June 30, 1988
   Budget Act of 1984;

Item	Amount
Item 3360-101-034, June 30, 1988 Item 3360-001-033(b), June 30, 1988 Item 3360-001-033(a), June 30, 1989	
3360-001-890—For support of State Energy Resources Conservation and Development Commission, for transfer to Item 3360-001-465, payable from the Federal Trust Fund	3,702,000
Provisions: 1. Of the amount appropriated by this item, $1,500,000 is for the Federal Energy Bank Program and, notwithstanding Section 16304.1 of the Government Code, shall be available for liquidation of encumbrance until June 30, 1989.	
3360-101-001—For local assistance, State Energy Resources Conservation and Development Commission, for a grant to Lassen Community College for expenses related to a cogeneration project, payable from the General Fund	167,000
3360-101-034—For local assistance, State Energy Resources Conservation and Development Commission, pursuant to the provisions of Public Resources Code Section 3822, payable from the Geothermal Resources Development Account, General Fund	2,200,000
Provisions: 1. Notwithstanding Section 16304.1 of the Government Code, the funds appropriated by this item shall be available for liquidation of encumbrances until June 30, 1989. 2. Notwithstanding the provisions of Sections 3807 and 3822.1 of the Public Resources Code, upon determination and approval by the commission, up to $250,000 shall be available for the Heber Binary Project, subject to such condition as it may specify. 3. The California Energy Commission shall replace the Department of Water Resources as the state agency required to submit a report to the Legislature recommending whether the state should continue to maintain its ownership interest in the Heber Binary Demonstration Project.	
3360-490—Reappropriation, State Energy Resources Conservation and Development Commission. Notwithstanding any other provisions of law, the unencumbered balance, on the effective date of this act, of the appropriation provided in the following citation is reappropriated for the purposes provided for in such appropriation, and shall be available for expenditure until June 30, 1986, for transfer to Item 3360-001-465:	
189—Energy Account, Energy and Resources Fund: (1) Item 3360-001-189(d), Budget Act of 1982.	
3380-001-001—For support of California Waste Management Board	3,904,000
Schedule: (a) 100000-Personal Services 2,728,000	

Item		Amount
(b) 300000-Operating Expenses and Equipment	1,359,000	
(c) Reimbursements	−83,000	
(d) Amount payable from the Environmental License Plate Fund (Item 3380-001-140)	−100,000	
3380-001-140—For support of California Waste Management Board, for transfer to Item 3380-001-001, payable from the Environmental License Plate Fund		100,000
3400-001-001—For support of State Air Resources Board		6,211,000
Schedule:		
(a) 100000-Personal Services	25,486,000	
(b) 300000-Operating Expenses and Equipment	21,862,000	
(c) Reimbursements	−611,000	
(d) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 3400-001-044)	−31,907,000	
(e) Amount payable from the Air Pollution Control Fund (Item 3400-001-115)	−2,245,000	
(f) Amount payable from the Environmental License Plate Fund (Item 3400-001-140)	−1,200,000	
(g) Amount payable from the Vehicle Inspection Fund (Item 3400-001-420)	−2,386,000	
(h) Amount payable from the Energy Resources Programs Account, General Fund (Item 3400-001-465)	−173,000	
(i) Amount payable from the Federal Trust Fund (Item 3400-001-890)	−2,615,000	
3400-001-044—For support of State Air Resources Board, for transfer to Item 3400-001-001, payable from the Motor Vehicle Account, State Transportation Fund		31,907,000
3400-001-115—For support of State Air Resources Board, for transfer to Item 3400-001-001, payable from the Air Pollution Control Fund		2,245,000
3400-001-140—For support of State Air Resources Board, for transfer to Item 3400-001-001, payable from the Environmental License Plate Fund		1,200,000
3400-001-420—For support of State Air Resources Board, for transfer to Item 3400-001-001, payable from the Vehicle Inspection Fund		2,386,000
3400-001-465—For support of State Air Resources Board, for transfer to Item 3400-001-001, payable from the Energy Resources Programs Account, General Fund		173,000
3400-001-890—For support of State Air Resources Board, for transfer to Item 3400-001-001, payable from the Federal Trust Fund		2,615,000

Item		Amount
3400-101-044—For local assistance, State Air Resources Board, for assistance to counties in the operation of local air pollution control districts, payable from the Motor Vehicle Account, State Transportation Fund		7,011,000
3460-001-001—For support of Colorado River Board of California		217,000
Schedule:		
(a) 100000-Personal Services	536,000	
(b) 300000-Operating Expenses and Equipment	142,000	
(c) Reimbursements	−451,000	
(d) Amount payable from the California Environmental License Plate Fund (Item 3460-001-140)	−10,000	
3460-001-140—For support of Colorado River Board, for transfer to Item 3460-001-001, payable from the California Environmental License Plate Fund		10,000
Provisions:		
1. The funds appropriated by this item are for the Salinity Control Forum.		
3480-001-001—For support of Department of Conservation		12,074,000
Schedule:		
(a) 10-Geologic Hazards and Mineral Resources Conservation	8,635,759	
(b) 20-Oil, Gas, and Geothermal Protection	7,494,000	
(c) 30-Special Services for Resources Protection	830,000	
(d) 40.01-Administration	3,823,000	
(e) 40.02-Distributed Administration	−3,823,000	
(f) Reimbursements	−481,000	
(g) Amount payable from the Surface Mining and Reclamation Account, General Fund (Item 3480-001-035)	−1,100,000	
(h) Amount payable from the State Highway Account, State Transportation Fund (Item 3480-001-042)	−12,000	
(i) Amount payable from the California Environmental License Plate Fund (Item 3480-001-140)	−120,000	
(j) Amount payable from the California Water Fund (Item 3480-001-144)	−12,000	
(k) Amount payable from the Strong Motion Instrumentation Program Fund (Item 3480-001-398)	−1,733,000	
(*l*) Amount payable from the Farmlands Mapping Account, General Fund (Item 3480-001-472)	−598,000	
(m) Amount payable from the Federal Trust Fund (Item 3480-001-890)	−829,759	

Item	Amount
Provisions: 1. Any federal funds made available for the Soil Conservation Advisory Committee Program shall replace funds appropriated by this item on a dollar-for-dollar basis, with the funds appropriated by this item to remain unexpended by the department.	
3480-001-035—For support of Department of Conservation, for transfer to Item 3480-001-001, payable from the Surface Mining and Reclamation Account, General Fund	1,100,000
Provisions: 1. Any unexpended balance of funds appropriated to the Surface Mining and Reclamation Account in the General Fund pursuant to Chapter 800, Statutes of 1980, shall be made available in the 1985–86 fiscal year for any salary and staff benefit increases which may be appropriated by the Legislature. 2. Any salary and staff benefit increases for which funds are unavailable from the Surface Mining and Reclamation Account shall be paid from the General Fund.	
3480-001-042—For support of Department of Conservation, for transfer to Item 3480-001-001, payable from the State Highway Account, State Transportation Fund	12,000
Provisions: 1. The funds appropriated by this item are for the state's share of the California Institute of Technology seismograph network.	
3480-001-140—For support of Department of Conservation, for transfer to Item 3480-001-001, payable from the California Environmental License Plate Fund	120,000
3480-001-144—For support of Department of Conservation, for transfer to Item 3480-001-001, payable from the California Water Fund	12,000
Provisions: 1. The funds appropriated by this item are for the state's share of the California Institute of Technology seismograph network.	
3480-001-398—For support of Department of Conservation, for transfer to Item 3480-001-001, payable from the Strong-Motion Instrumentation Program Fund	1,733,000
3480-001-472—For support of Department of Conservation, for transfer to Item 3480-001-001, payable from the Farmlands Mapping Account, General Fund	598,000
Provisions: 1. The funds appropriated by this item are to be used for the Farmland Mapping and Monitoring Program pursuant to the provisions of Chapter 864, Statutes of 1983. 2. Any salary and staff benefits which apply to the Farmland Mapping and Monitoring Program shall be paid from the General Fund.	

Item		Amount
3. Of the amount appropriated in this item, $148,000 shall be expended only if and when legislation approved during the 1985–86 Regular Session is chaptered and authorizes the expenditure of additional funds from the Farmland Mapping Account for the Farmlands Mapping and Monitoring Program.		
3480-001-890—For support of Department of Conservation, for transfer to Item 3480-001-001, payable from the Federal Trust Fund		829,759
3540-001-001—For support of Department of Forestry		174,038,000
Schedule:		
(a) 100000-Personal services	154,885,622	
(b) 300000-Operating expenses and equipment	85,843,045	
(c) Reimbursements	−54,359,667	
(f) Amount payable from the California Environmental License Plate Fund (Item 3540-001-140)	−259,000	
(ff) Amount payable from the Energy and Resources Fund (Item 3540-001-190)	−3,502,000	
(g) Amount payable from the Professional Forester Registration Fund (Item 3540-001-300)	−109,000	
(h) Amount payable from the Federal Trust Fund (Item 3540-001-890)	−2,410,000	
(i) Amount payable from the Forest Resources Improvement Fund (Item 3540-001-928)	−5,305,000	
(j) Amount payable from the Renewable Resources Investment Fund (Item 3540-001-940)	−724,000	
(k) Amount payable from the Timber Tax Fund (Item 3540-001-965)	−22,000	
Provisions:		
1. Of the amount appropriated in category (b), $7,000,000 is for emergency fire suppression and detection costs and related emergency revegetation costs and may be used for these purposes only. This amount may be transferred to category (a) notwithstanding the limitations and notification requirements of Section 6.50 of this act provided, however, that any such transfers are subject to the quarterly reporting requirements of Section 6.50. In addition, the Director of Forestry shall furnish quarterly reports on expenditures for emergency fire suppression activities to the Director of Finance, as well as to the chairperson of the committee of each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee.		

Item	Amount
3. No funds appropriated to the Department of Forestry by this or any other act shall be used to provide assistance in planning or carrying out prescribed burning projects conducted on U.S. Forest Service or Bureau of Land Management lands unless those agencies agree, in writing, to indemnify the state for all suppression costs incurred in the event the fire escapes.	
4. The California Department of Forestry is authorized to sell 15 cabs and chassis for crew-carrying vehicles to the California Conservation Corps for an amount not to exceed $450,000. It is recognized that reimbursements to the California Department of Forestry shall increase by this amount. It is the intent of the Legislature that these increased reimbursements shall be used by the Department of Forestry to replace the 15 cabs and chassis for crew-carrying vehicles that the Department of Forestry sold to the California Conservation Corps.	
3540-001-140—For support of Department of Forestry, for transfer to Item 3540-001-001, payable from the California Environmental License Plate Fund	259,000
3540-001-190—For support of Department of Forestry, for transfer to Item 3540-001-001, payable from the Energy and Resources Fund	3,502,000
3540-001-300—For support of Department of Forestry, for transfer to Item 3540-001-001, payable from the Professional Forester Registration Fund	109,000
3540-001-890—For support of Department of Forestry, for transfer to Item 3540-001-001, payable from the Federal Trust Fund	2,410,000
3540-001-928—For support of Department of Forestry, for transfer to Item 3540-001-001, payable from the Forest Resources Improvement Fund	5,305,000
Provisions: 1. The intent of the Legislature in increasing Item 3540-001-001 by $897,000 for administrative costs of the Forest Practice Act is to increase the amount available in this item by the same amount for grants for reforestation projects.	
3540-001-940—For support of Department of Forestry, for transfer to Item 3540-001-001, payable from the Renewable Resources Investment Fund	724,000
Provisions: 1. The funds appropriated by this item are for watershed mapping, soil erosion studies, and timber harvest plan review.	
3540-001-965—For support of Department of Forestry, for transfer to Item 3540-001-001, payable from the Timber Tax Fund	22,000
3540-011-001—For support of Department of Forestry, 58.2 personnel-years and operating expenses to provide fire lookout services	1,314,000

Item			Amount
Provisions:			
1. All of the funds appropriated by this item are for operation of the department's system of 72 fire lookouts and may be used only to provide fire lookout services by state employees. None of these funds may be used or redirected to contract for these services.			
3540-011-928—For transfer to the General Fund, in accordance with subdivision (a) of Section 4799.13 of the Public Resources Code, for the costs of operation of the state forests for the period July 1, 1985 through June 30, 1986, payable from the Forest Resources Improvement Fund			(1,467,000)
3540-301-036—For Capital Outlay, Department of Forestry, payable from the Special Account for Capital Outlay			2,210,000
Schedule:			
(1)	30.10.025-Sonoma Ranger Unit Headquarters, Replacement auto shop and apparatus building—preliminary plans and working drawings	57,000	
(2)	30.20.015-Shasta Forest Fire Station, New station—preliminary plans and working drawings	73,000	
(3)	30.20.025-Crystal Creek Conservation Camp—acquisition/land exchange	22,000	
(4)	30.20.040-Redding Air Attack Base, Reconstruction—preliminary plans and working drawings	51,000	
(5)	30.20.045-Tehama—Glenn Ranger Unit Headquarters, Replacement apparatus building— preliminary plans and working drawings	37,000	
(6)	30.20.055-Feather Falls Forest Fire Station, Replacement station —preliminary plans and working drawings	34,000	
(7)	30.20.075-Oroville, Passive reflector site—acquisition	8,000	
(9)	30.30.060-Miramonte Conservation Camp—acquisition	228,000	
(10)	30.40.025-Saratoga Summit Forest Fire Station, apparatus building, barracks, and mess hall—working drawings	30,000	
(12)	30.60.020-Statewide opportunity purchases	15,000	
(13)	30.80.000-Minor projects	1,655,000	

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Provisions:

1. Notwithstanding the provisions of Sections 1255.010 and 1255.040 of the Code of Civil Procedure, no order of immediate possession may be authorized with respect to the 108-acre parcel of land at the Miramonte Conservation Camp for which acquisition funds are provided in category (9).

3540-301-928—For Capital Outlay, Department of Forestry, payable from the Forest Resource Improvement Fund 270,000

Schedule:

(1) 30.30.035—Mountain Home Demonstration State Forest, Montgomery Parcel—acquisition 270,000

Provisions:

1. Notwithstanding any other provision of law, funds appropriated in this item shall be available for acquisition of approximately 53 acres of property wholly within the boundaries of the Mountain Home Demonstration State Forest.

3540-490—Reappropriation, Department of Forestry. On the effective date of this act, notwithstanding any other provisions of law, the unencumbered balance of the appropriation provided in the following citation is reappropriated for the purpose provided therein. These funds shall be available for expenditure until June 30, 1986.

036—Special Account for Capital Outlay:

(1) Item 3540-301-036(8), Budget Act of 1984, 30.50.030 De Luz Forest Fire Station—preliminary plans and working drawings for replacement station.

3540-491—Reappropriation, Department of Forestry. Notwithstanding any other provision of law, the unencumbered balances of the appropriations provided in the following citations are hereby appropriated for the purposes provided for in those appropriations, and shall be available for expenditure until June 30, 1986, as follows:

001-General Fund

(a) Item 3540-001-001(A), Budget Act of 1984—not to exceed $742,000; Chapter 280, Statutes of 1984, relocation costs.

(b) Item 3540-001-001(A), Budget Act of 1982—not to exceed $144,160 from the General Fund and $234,260 in reimbursements, crew carrying vehicles.

3560-001-001—For support of State Lands Commission 16,115,000

Schedule:

(a) 100000-Personal Services 10,702,000
(b) 300000-Operating Expenses and Equipment 6,320,000
(c) Reimbursements ..... −907,000

Provisions:

Item		Amount
1. Notwithstanding the provisions of Section 4(d) Chapter 138, Statutes of 1964, 1st Extraordinary Session, all commission costs for administering Long Beach Tidelands, exclusive of any Attorney General charges, shall be included in revenues deposited into the General Fund pursuant to Public Resources Code Section 6217(a) (2).		
2. All costs incurred to manage State School Lands shall be deducted from the revenues produced by those lands and deposited into the General Fund pursuant to Chapter 1213 of the Statutes of 1983.		
3. The $824,000 appropriated in this item for geological, biological, and environmental studies of Parcel No. 1 of state tide and submerged lands shall be only to protect the state's interest in avoiding drainage of oil and gas to Parcel No. 2879, which is currently leased.		
4. The $1,335,000 appropriated in this item for environmental and geological studies of state tide and submerged lands between Point Arguello and Point Sal shall be the primary purposes of both of the following:		
(a) Assisting the state in its negotiations with the federal government regarding the state's interest in federal oil and gas revenue.		
(b) Providing a base of geological and environmental data for the area. These studies shall in no way be conducted in a manner that would commit the state to lease the land under study.		
5. No funds appropriated in this item shall be encumbered for any purpose other than those specifically provided by the Legislature unless the Chairperson of the Joint Legislative Budget Committee is notified in advance in a manner consistent with Section 28.00.		
3560-301-036—For Capital Outlay, State Lands Commission, payable from the Special Account for Capital Outlay		88,000
Schedule:		
(1) 40.10.010-Statewide—Hazard Removal Program—Study and Planning	88,000	
3580-001-001—For Support of Seismic Safety Commission		829,000
Schedule:		
(a) 10.10-Seismic Safety	454,000	
(b) 10.20-Bay Area Earthquake Study	750,000	
(c) Amount payable from Federal Trust Fund (Item 3580-001-890)	—375,000	

Item		Amount
Provisions:		
1. Notwithstanding any other provisions of law, the General Fund appropriation in category (b) shall be available for expenditure regardless of the avilability of federal matching funds. To the maximum extent possible, the Seismic Safety Commission shall seek federal matching funds for the Bay Area Earthquake Study.		
3580-001-890—For support of Seismic Safety Commission, for transfer to Item 3580-001-001, payable from the Federal Trust Fund		375,000
3600-001-001—For support of Department of Fish and Game, for transfer to Item 3600-001-200		7,509,922
3600-001-036—For support of Department of Fish and Game, for transfer to Item 3600-001-200, payable from the Special Account for Capital Outlay		2,706,000
3600-001-140—For support of Department of Fish and Game, for transfer to Item 3600-001-200, payable from the California Environmental License Plate Fund		10,083,000
Provisions:		
1. Of the amount appropriated in this item, an amount, not to exceed $70,000, shall be available for encumbrance by the department for the costs of preparing mountain lion management plans, as required by Section 4856 of the Fish and Game Code, as proposed by Senate Bill 76 of the 1985–86 Regular Session of the Legislature. This provision shall become operative only if Senate Bill 76 is enacted. If Senate Bill 76 is not enacted, $70,000 of the amount appropriated in this item shall revert to the unappropriated surplus in the California Environmental License Plate Fund.		
2. Of the amount appropriated in this item, an amount, not less than $200,000, shall be available for encumbrance by the Department of Fish and Game for the Suisun Marsh Wildlife Rehabilitation Center.		
3600-001-200—For support of Department of Fish and Game, payable from the Fish and Game Preservation Fund		55,246,078
Schedule:		
(a) 100000-Personal Services	50,942,000	
(b) 300000-Operating Expenses and Equipment	44,255,000	
(c) Reimbursements	−6,960,000	
(d) Amount payable from the General Fund (Item 3600-001-001)	−7,509,922	
(e) Amount payable from the Special Account for Capital Outlay (Item 3600-001-036)	−2,706,000	
(f) Amount payable from the California Environmental License Plate Fund (Item 3600-001-140)	−10,083,000	
(g) Amount payable from the Federal Trust Fund (Item 3600-001-890)	−11,836,000	

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(h) Amount payable from the Renewable Resources Investment Fund (Item 3600-001-940) ..... —856,000

Provisions:

1. The amount appropriated by this item may be increased with the approval of and under the conditions set by the Department of Finance to meet current obligations proposed to be funded by categories (c) and (g) of this item. This increased authorization may not be used to expand services or create new obligations.

   Reimbursements received under categories (c) and (g) of this item shall be used in repayment of any funds utilized to meet current obligations pursuant to this provision.

2. Notwithstanding Sections 711 and 712 of the Fish and Game Code, funds appropriated by this item shall be utilized for support of the Sea Otter Research Project because a benefit of this study will be information applicable to the protection of the abalone and clam fisheries.

3. Borrowing from special dedicated accounts within the Fish and Game Preservation Fund for purposes not explicitly authorized for the use of those accounts shall be prohibited except for short-term, cash-flow loans which the Director of Fish and Game certifies shall be repaid within the 1985–86 fiscal year.

4. Of the amount appropriated by this item, $106,000 shall be made available from salary savings to maintain the Department of Fish and Game Wildlife Investigation Laboratory at the same staffing level as in the 1984–85 fiscal year.

3600-001-890—For support of Department of Fish and Game, for transfer to Item 3600-001-200, payable from the Federal Trust Fund 11,836,000

3600-001-940—For support of Department of Fish and Game, for transfer to Item 3600-001-200, payable from the Renewable Resources Investment Fund 856,000

3600-011-001—For transfer to the Fish and Game Preservation Fund, to provide a one-time loan from the General Fund for cash flow purposes 2,000,000

Provisions:

1. The department shall repay the $2,000,000 loan provided in this item to the General Fund from the Fish and Game Preservation Fund on or before June 30, 1990. The loan shall be repaid in 48 monthly installments, with interest calculated at the rate received by funds in the Pooled Money Investment Account.

3600-301-200—For Capital Outlay, Department of Fish and Game, payable from the Fish and Game Preservation Fund 251,000

Schedule:

(1) 90.07.100-Minor projects 251,000

3640-001-447—For support of Wildlife Conservation Board, payable from the Wildlife Restoration Fund 556,000

Item		Amount
Schedule:		
(a) 100000-Personal Services	456,911	
(b) 300000-Operating Expenses and Equipment	99,089	

Provisions:

1. In the event that Federal Land and Water Conservation Funds are received in reimbursement for administrative costs associated with bond projects, an amount equal thereto from the Wildlife Restoration Fund shall not be utilized for support of the Wildlife Conservation Board.
2. The Wildlife Conservation Board is hereby authorized to use its existing staff to assist the United States Bureau of Land Management in carrying out exchanges of federal land for privately held lands that complement state efforts to secure suitable habitat for bighorn sheep.

3640-301-140—For Capital Outlay, Wildlife Conservation Board, payable from the California Environmental License Plate Fund 3,000,000

Schedule:

(1) 80.10.100-Land acquisition and development—ecological reserves	3,000,000

Provisions:

1. The funds in category (1) are provided in accordance with the provisions of the Wildlife Conservation Law of 1947 and, therefore, shall not be subject to Public Works Board review.

3640-301-447—For Capital Outlay, Wildlife Conservation Board, payable from the Wildlife Restoration Fund, in lieu of the appropriation made by the Wildlife Conservation Law of 1947 1,720,000

Schedule:

(1) 80.10.010-Minor projects	950,000
(2) 80.10.020-Project planning	20,000
(3) 80.10.030-Land acquisitions	750,000

Provisions:

1. The funds in this appropriation are provided in accordance with the provisions of the Wildlife Conservation Law of 1947 and therefore, shall not be subject to Public Works Board review.
2. If the Department of Finance receives a request from the Wildlife Conservation Board to augment the amount approved in categories (2) to (3), inclusive within the schedule of this item by transfer from one or more of those categories within such schedule, no such transfer shall be approved any sooner than 30 days after the Department of Finance notifies the Chairperson of the Joint Legislative Budget Committee, or his or her designee, of the department's intent to approve the transfer, or not sooner than such lesser time as may be specified by the Chairperson of the Joint Legislative Budget Committee, or his or her designee.

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PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM OF 1984

3640-301-722—For Capital Outlay, Wildlife Conservation Board, payable from the Parklands Fund of 1984 5,000,000

Schedule:

(1) 80.10.001-Development, rehabilitation, or restoration of real property for coastal fishing piers 3,000,000

(2) 80.10.100-Acquisition, development, rehabilitation, or restoration of real property for wildlife-oriented public use projects 2,000,000

Provisions:

1. The funds in this appropriation are provided in accordance with the provisions of the Wildlife Conservation Law of 1947 (Chapter 4 (commencing with Section 1300) of Division 1 of the Fish and Game Code) and therefore shall not be subject to review by the Public Works Board.

FISH AND WILDLIFE HABITAT ENHANCEMENT PROGRAM

3640-301-748—For Capital Outlay, Wildlife Conservation Board payable from the Fish and Wildlife Habitat Enhancement Fund 9,100,000

Schedule:

(1) 88.10.001-Acquisition, enhancement, or development pursuant to Fish and Game Code Section 2620(a)(1) 4,000,000

(2) 88.10.100-Acquisition, enhancement or development pursuant to Fish and Game Code Section 2620(a)(2) 1,000,000

(3) 88.01.200-Acquisition, enhancement, or development pursuant to Fish and Game Code Section 2620(b) 1,000,000

(4) 88.01.300-Acquisition, enhancement, or development pursuant to Fish and Game Code Section 2620(d) 3,000,000

(5) 88.01.400-Project Planning pursuant to Fish and Game Code Section 2621 100,000

Provisions:

1. The funds in categories (1) through (4) are provided pursuant to the Wildlife Conservation Law of 1947 and, therefore, shall not be subject to Public Works Board Review.
2. The funds in categories (1) and (2) are for expenditure on lands located outside the coastal zone.

Item			Amount
3. The funds in category (5) are available to support categories (1), (2), and (4) for the 1985–86 fiscal year and not intended, nor to be construed, to establish any additional positions.			
3680-001-001—For support of Department of Boating and Waterways, for transfer to Item 3680-001-516			836,000
3680-001-516—For support of Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund			3,387,000
Schedule:			
(a) 100000-Personal Services		2,334,000	
(b) 300000-Operating Expenses and Equipment		1,884,000	
(c) Feasibility Determinations		20,000	
(d) Boating Safety Financial Assistance		250,000	
(e) Reimbursements		−15,000	
(f) Amount payable from the General Fund (Item 3680-001-001)		−836,000	
(g) Amount payable from the Federal Trust Fund (Item 3680-001-890)		−250,000	
Provisions:			
1. The funds appropriated in category (d) for Boating Safety Financial Assistance shall be expended in accordance with federal law.			
3680-001-890—For support of Department of Boating and Waterways, for transfer to Item 3680-001-516, payable from the Federal Trust Fund			250,000
3680-101-001—For local assistance, Department of Boating and Waterways, for beach erosion control projects, payable from the General Fund			1,600,000
Schedule:			
(a) Glorietta Bay Project—San Diego County		500,000	
(b) Santa Cruz Accessways—Santa Cruz County		350,000	
(c) Whaler Island Project—Del Norte County		750,000	
Provisions:			
1. None of the funds appropriated in categories (a) through (c) of this item shall be encumbered by the Department of Boating and Waterways unless and until the department receives a legally binding commitment from a local public agency to provide for at least that portion of the costs of the project as included in the proposed 1985–86 Governor's Budget.			
3680-101-036—Local Assistance, Department of Boating and Waterways, for beach erosion control projects, payable from the Special Account for Capital Outlay			3,402,000
Schedule:			
(a) Carlsbad Shore Protection Project		2,915,000	
(b) Alameda Beach Erosion Control Project		487,000	

Item			Amount
Provisions: 1. Of the amount appropriated in category (a), $200,000 shall be expended only upon approval of the Department of Finance and notification to the Joint Legislative Budget Committee. 2. None of the funds appropriated in category (a) of this item shall be encumbered by the department unless and until the department receives a legally binding commitment from a local public agency to provide at least 25 percent of the costs of the total project costs.			
3680-101-140—For local assistance, Department of Boating and Waterways, for an Environmental Enhancement and Protection project, payable from the California Environmental License Plate Fund			450,000
Schedule: (a) Sacramento River Front—Sacramento County		450,000	
3680-101-516—For local assistance, Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund			25,382,000
Schedule: (a) Launching facility grants		5,032,000	
(1) Alameda Ramp, Alameda County	83,000		
(2) Lake Alpine, Alpine County	137,000		
(3) Cuttings Wharf, Napa County	45,000		
(4) Diaz Lake, Inyo County	235,000		
(5) El Capitan, San Diego County	353,000		
(6) Floating Restrooms, Statewide	150,000		
(7) Hell Hole Reservoir, Placer County	202,000		
(8) Hogback Island, Sacramento County	127,000		
(9) Huntington Beach, Orange County	370,000		
(10) Jenkinson Lake, El Dorado County	365,000		
(11) Mayflower Park, Riverside County	70,000		
(12) McIntyre Co. Park, Riverside County	236,000		
(13) Point Arena, Mendocino County	500,000		
(14) Port San Luis, San Luis Obispo County	238,000		

Item		Amount
(15) Ramp Repairs and Modifications, Statewide	100,000	
(16) Rush Creek, Trinity County	103,000	
(17) Lake San Antonio, Monterey County	217,000	
(18) Silver Lake, Mono County	215,000	
(19) Skinner Lake, Riverside County	140,000	
(20) Sutherland Res., San Diego County	283,000	
(21) Tannery Gulch, Trinity County	158,000	
(22) Ventura Marina, Ventura County	180,000	
(23) Lake Webb, Kern County	525,000	
(b) Loans: Local Government		18,650,000
(1) Antioch Marina, Contra Costa County	3,000,000	
(2) Avalon Harbor, Los Angeles County	500,000	
(3) Berkeley Harbor, Alameda County	2,000,000	
(4) Crescent City, Del Norte County	250,000	
(5) Moss Landing, Monterey County	950,000	
(6) Oyster Point Marina, San Mateo County	3,000,000	
(7) Planning Loans, Statewide	100,000	
(8) Sacramento Boat Harbor, Sacramento County	2,000,000	
(9) Seabridge Marina, Orange County	2,000,000	
(9.5) Pittsburg Marina Loan	1,750,000	
(10) South Beach, San Francisco County	400,000	
(11) Vallejo Marina, Solano County	2,700,000	
(c) Boating safety and enforcement		3,200,000
(d) Boating safety financial assistance		750,000
(e) Amount payable from the Federal Trust Fund (Item 3680-101-890)		−2,750,000

Item Amount

(f) Recreational Marina Loans-Private 500,000

Provisions:

1. The funds appropriated in category (a) are for grants to cities, counties, districts, or other public agencies pursuant to Sections 72.5 and 72.7 of the Harbors and Navigation Code to be used for construction and development of small craft launching facilities and floating restrooms.
2. 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.
3. No funds appropriated in category (b) shall be expended unless and until all project permits from the appropriate state and federal agencies are received, except for those funds that are necessary to obtain project permits.
4. No funds appropriated in categories (a) and (b) shall be encumbered or expended unless and until an environmental impact report is completed and approved for the project.
5. The funds appropriated in category (c) are for boating safety and enforcement programs pursuant to Section 663.7 of the Harbors and Navigation Code.
6. The funds appropriated in category (d) for Boating Safety Financial Assistance shall be expended in accordance with federal law.
7. The funds appropriated in category (f) are for private recreational marinas pursuant to Section 1, Division 17 of the Financial Code.

3680-101-890—For local assistance, Department of Boating and Waterways, for transfer to Item 3680-101-516, payable from the Federal Trust Fund 2,750,000

Provisions:

1. Of the amount appropriated by this item, $750,000 shall be for grants to local governments for boating safety and law enforcement, 15 percent of which shall be allocated according to the department's discretion, and 85 percent of which shall be allocated by the department in accordance with the following priorities:
   First—To local governments eligible for state aid because they are spending all their local boating revenue on boating enforcement and safety, but are not receiving sufficient state funds to meet their calculated need as defined in Section 663.7 of the Harbors and Navigation Code.
   Second—To local governments that are not spending all local boating revenue on boating enforcement and safety, and whose boating revenue does not equal their calculated need. Local assistance shall not exceed the difference

Item		Amount
between the calculated need and local boating revenue. Third—To local governments whose boating revenue exceeds their need, but who are not spending sufficient local revenue to meet their calculated need.		
3680-301-516—For Capital Outlay, Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund		699,000
Schedule:		
(2) 50.99.010-Project Planning	20,000	
(3) 50.99.020-Minor projects	679,000	
3720-001-001—For support of California Coastal Commission		6,253,000
Schedule:		
(a) 100000-Personal Services	5,256,000	
(b) 300000-Operating Expenses and Equipment	3,352,000	
(c) Reimbursements	−40,000	
(d) Amount payable from the California Environmental License Plate Fund (Item 3720-001-140)	−315,000	
(e) Amount payable from the Federal Trust Fund (Item 3720-001-890)	−2,000,000	
Provisions:		
1. The commission shall, to the extent legally possible, utilize categorical exclusions, permit exemptions, and administrative permits authorized by Division 20 (commencing with Section 30000) of the Public Resources Code to reduce the commission's regulatory workload and to achieve overall cost savings to the state.		
2. The commission shall, to the extent resources are available, undertake efforts to expedite the transfer to local governments of coastal development permit authority pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code by providing training and any other assistance it deems appropriate to assist local governments in the assumption of this coastal permit responsibility.		
3720-001-140—For support of California Coastal Commission, for transfer to Item 3720-001-001, payable from the California Environmental License Plate Fund		315,000
3720-001-890—For support of California Coastal Commission, for transfer to Item 3720-001-001, payable from the Federal Trust Fund		2,000,000
3720-101-001—For local assistance, California Coastal Commission		280,000
Schedule:		
(a) Assistance to Local Planning Agencies	280,000	
Provisions:		

Item		Amount
1. The funds appropriated are for coastal planning assistance as provided in Section 16 of Chapter 1330 of the Statutes of 1976, as amended by Section 28 of Chapter 1331 of the Statutes of 1976.		
3760-001-001—For support of State Coastal Conservancy, for transfer to Item 3760-001-565, payable from the General Fund		398,000
Provisions:		
1. The funds appropriated in this item shall be considered a loan from the General Fund to the Coastal Conservancy to provide for the conservancy's staff costs during the 1985–86 fiscal year associated with the California Urban Waterfront Area Restoration Financing Authority (CUWARFA) program. The General Fund shall be repaid within 24 months by the CUWARFA Fund, with interest equal to the average rate which is earned by funds in the Pooled Money Investment Account during the period between the encumbrance of funds from this item and the repayment of these funds.		
3760-001-565—For support of State Coastal Conservancy, payable from the State Coastal Conservancy Fund		711,000
Schedule:		
(a) 100000-Personal Services	1,556,000	
(b) 300000-Operating Expenses and Equipment	833,000	
(c) 454632-Preproject feasibility planning	415,000	
(d) Reimbursements	−25,000	
(e) Amount payable from the California Environmental License Plate Fund (Item 3760-001-140)	−60,000	
(f) Amount payable from the Parklands Fund of 1980 (Item 3760-001-721)	−1,101,000	
(g) Amount payable from the State Coastal Conservancy Fund of 1984 (Item 3760-001-730)	−359,000	
(h) Amount payable from the Fish and Wildlife Habitat Enhancement Fund (Item 3760-001-748)	−150,000	
(i) Amount payable from the General Fund (Item 3760-001-001)	−398,000	
3760-001-140—For support of State Coastal Conservancy, for transfer to Item 3760-001-565, payable from the California Environmental License Plate Fund		60,000

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM

3760-001-721—For support of State Coastal Conservancy, for transfer to Item 3760-001-565, payable from the Parklands Fund of 1980	1,101,000

Item Amount

STATE COASTAL CONSERVANCY

3760-001-730—For support of State Coastal Conservancy, for transfer to Item 3760-001-565, payable from the State Coastal Conservancy Fund of 1984 359,000

Provisions:

1. Of the amount appropriated in this item, up to $90,000 shall be available for encumbrance by the Coastal Conservancy for a commercial fishing industry facilities program.

FISH AND WILDLIFE HABITAT ENHANCEMENT PROGRAM

3760-001-748—For support of State Coastal Conservancy, for transfer to Item 3760-001-565, payable from the Fish and Wildlife Habitat Enhancement Fund 150,000

3760-101-140—For local assistance, State Coastal Conservancy, payable from the California Environmental License Plate Fund 590,000

Schedule:

(b)	Tijuana River National Estuarine Sanctuary	215,000
(c)	Chula Vista: Bayfront Nature Center	375,000

Provisions:

1. The Conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition which provides: (a) a reversionary interest to the state unless the grant contract specifies that the property shall not revert to the state without review and approval by the Conservancy and the State Public Works Board; or (b) a state leasehold interest in property acquired by a nonstate public agency with Conservancy grant funds unless the lease terms in the grant contract are approved by the Director of General Services. Except to the extent above, the expenditure of funds for grants to public agencies and nonprofit organizations shall be exempt from State Public Works Board review.
2. Of the amount appropriated in category (b) for the Tijuana River National Estuarine Sanctuary: $81,600 shall be available for development of artificial wetlands; $80,355 shall be for matching funds for an approved NOAA grant to develop a laboratory study facility on the artificial wetland site; $22,000 shall be for enhancement of a shallow channel to provide estuarine water to the artificial wetland site; and $31,045 shall be for ground surveys and hydrological studies.

Item Amount

STATE COASTAL CONSERVANCY

3760-101-730—For local assistance, State Coastal Conservancy, payable from the State Coastal Conservancy Fund of 1984 11,000,000

Schedule:

(c) Agricultural land preservation	1,000,000
(d) Urban waterfront restoration	3,000,000
(e) Public access projects	2,000,000
(f) Coastal restoration projects	3,000,000
(g) Eastbay Shoreline Project	2,000,000

Provisions:

1. The amount appropriated in this item for coastal restoration projects is available for expenditure for local assistance, or for capital outlay pursuant to subdivision (a) of Section 5096.232 of the Public Resources Code.
2. The amounts appropriated in Schedules (c), (d), (e), and (f) shall be available pursuant to Section 5096.232 of the Public Resources Code as follows: for purposes of subdivision (a), $2,000,000; for purposes of subdivision (b) (Suisun Marsh and San Francisco Bay), $2,000,000; for purposes of subdivision (c) (LCP implementation), $5,000,000.
3. The Director of Finance may authorize category transfers within this item pursuant to Section 6.50 of this act.
4. The Conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition which provides for either of the following:
   (a) A reversionary interest to the state, unless the grant contract specifies that the property shall not revert to the state without review and approval by the Conservancy and the State Public Works Board.
   (b) A state leasehold interest in property acquired by a nonstate public agency with Conservancy grant funds, unless the lease terms in the grant contract are approved by the Director of General Services.

   Except to the extent above, the expenditure of funds for grants to public agencies and nonprofit organizations shall be exempt from State Public Works Board review.
5. Of the amounts appropriated in schedules (e) and (f), $475,000 shall be available for the Aliso Greenbelt Visitor/Nature Center in Orange County.

Item Amount

FISH AND WILDLIFE HABITAT ENHANCEMENT PROGRAM

3760-101-748—For local assistance, State Coastal Conservancy, payable from the Fish and Wildlife Habitat Enhancement Fund 7,500,000

Schedule:

(a) 60.80.040—Coastal restoration projects 500,000

(b) 60.80.050—Coastal resource enhancement 7,000,000

Provisions:

1. The amount appropriated in this item for coastal resource enhancement is available for expenditure for local assistance or capital outlay.
2. The amount appropriated in this item for coastal restoration projects is available for expenditure for local assistance or for capital outlay.
3. The Director of Finance may authorize category transfers within this item pursuant to Section 6.50 of this act.
4. The Conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition which provides either or both of the following:
   (a) A reversionary interest to the state, unless the grant contract specifies that the property shall not revert to the state without review and approval by the Conservancy and the State Public Works Board.
   (b) A state leasehold interest in property acquired by a nonstate public agency with Conservancy grant funds, unless the lease terms in the grant contract are approved by the Director of General Services.

   Except to the extent indicated above, the expenditure of funds for grants to public agencies and non-profit organizations shall be exempt from State Public Works Board review.

STATE COASTAL CONSERVANCY

3760-301-730—For Capital Outlay, State Coastal Conservancy, payable from the Coastal Conservancy Fund of 1984 7,500,000

Schedule:

(1) 20.18.012.000-Monterey State Beach, Window-on-the-Bay acquisition 3,500,000

(2) 20.20.040.000-Cascade Ranch acquisition 3,000,000

(3) 20.20.010.000-Reservation of significant coastal areas 500,000

(4) 20.20.020.000-Commercial Fishing Loans 499,000

Item		Amount
(5)	20.20.030-Other programs authorized by Division 21 (commencing with Section 31000), Public Resources Code	1,000

Provisions:

1. Category transfers may be authorized for this item pursuant to Section 6.5 of this act.
2. The funds appropriated in category (2) are approved with the condition that there shall be a 30-day review by the Joint Legislative Budget Committee prior to Public Works Board Action.

   Funding provided for Cascade Ranch may be expended if approved in compliance with procedures set forth in Division 21 (commencing with Section 31000) of the Public Resources Code.

   The coastal access lands acquired pursuant to the appropriation for Cascade Ranch may be leased to a private camp operator, provided there is a competitive bid process and a 30-day review by the Joint Legislative Budget Committee. The access lands may be leased for a period not to exceed 25 years, if approved by the conservancy and the Department of General Services.
3. The funds appropriated in category (1) are approved with the condition that properties acquired by the State Coastal Conservancy pursuant to category (1) may be those owned by the City of Monterey or other properties within the City of Monterey appropriate for addition to Monterey State Beach.

   Any properties acquired by the State Coastal Conservancy pursuant to category (3) shall be reacquired by the Department of Parks and Recreation within three years of the effective date of this appropriation or the Conservancy may sell these properties.

   The State Coastal Conservancy shall acquire properties pursuant to category (3) only if it determines that the properties will retain their value and marketability during the term of the Conservancy's ownership.

   For properties which are acquired by the State Coastal Conservancy from the City of Monterey pursuant to category (3), the Conservancy shall not pay more than the lesser of (a) the appraised value as approved by the state or (b) the price paid for these properties by the City of Monterey. For other properties which are acquired by the Conservancy pursuant to category (3), the Conservancy shall not pay more than the appraised value as approved by the state.

Item		Amount
FISH AND WILDLIFE HABITAT ENHANCEMENT PROGRAM		
3760-301-748—For Capital Outlay, State Coastal Conservancy, payable from the Fish and Wildlife Habitat Enhancement Fund		1,500,000
Schedule:		
(a) 20.19.011-Sinkyone Wilderness-acquisition	1,000,000	
(b) 20.20.010-Reservation of significant coastal areas	499,000	
(c) 20.20.030-Other programs authorized by Division 21 (commencing with Section 31000) of the Public Resources Code	1,000	
Provisions:		
1. Category transfers for this item may be authorized pursuant to Section 6.50 of this act.		
3760-490—Reappropriations, State Coastal Conservancy. Notwithstanding any other provisions of law, the unencumbered balance, on the effective date of this act, of the appropriation provided in the following citation is reappropriated for the purpose provided for in the appropriation and shall be available for expenditure until June 30, 1986.		
721—Parklands Fund of 1980		
(1) Item 3760-301-721, Budget Act of 1981. For capital outlay, an amount not to exceed $500,000 is available to implement a public access program at the Hollister Ranch in Santa Barbara County pursuant to Sections 30610.3 and 30610.8 of the Public Resources Code.		
3790-001-001—For support of Department of Parks and Recreation		72,020,295
Schedule:		
(a) 100000-Personal Services	82,842,269	
(b) 300000-Operating Expenses and Equipment	38,760,026	
(bx) Rehabilitation of Camping Facilities	200,000	
(c) Reimbursements	−7,651,000	
(d) Amount payable from the California Environmental License Plate Fund (Item 3790-001-140)	−25,000	
(e) Amount payable from the Off-Highway Vehicle Fund (Item 3790-001-263)	−5,738,000	
(f) Amount payable from the State Parks and Recreation Fund (Item 3790-001-392)	−34,510,000	
(g) Amount payable from the Harbors and Watercraft Revolving Fund (Item 3790-001-516)	−303,000	
(h) Amount payable from the Federal Trust Fund (Item 3790-001-890)	−1,555,000	

Item	Amount
Provisions: 1. Contracts for outside legal services related to land acquisition projects are exempt from approval by the Attorney General. The fees for those services shall not exceed the amount of fees normally charged by the Attorney General. 2. Of the amount appropriated by this item, $305,000 is available to pay for increased salary and benefit costs for 112 positions associated with the establishment by the Department of Personnel Administration and the State Personnel Board of State Park Cadet (Ranger) and State Park Cadet (Lifeguard) classifications during 1985–86. Any portion of the $305,000 which is not expended for increased salary and benefit costs for the 112 positions associated with the establishment of the new classifications, as verified by the Department of Finance, shall be reverted by the State Controller on June 30, 1986, to the General Fund and the Off-Highway Vehicle Fund, in the appropriate amounts as determined by the Controller. 3. The department is authorized to complete a feasibility study on the acquisition of 4,000 acres at Forest of Nisene Marks State Park, provided that the cost of such study is fully reimbursed by the Pelican Timber Company. 4. Of the amount appropriated by this item, $58,000 shall be available to pay for increased costs associated with the Hearst Castle Tour Bus contract. Prior to expenditure of the $58,000, notification shall be given to the Chairperson of the Joint Legislative Budget Committee pursuant to Section 28.00.	
3790-001-140—For support of Department of Parks and Recreation, to be transferred to Item 3790-001-001, payable from the California Environmental License Plate Fund	25,000
3790-001-263—For support of Department of Parks and Recreation, for transfer to Item 3790-001-001, payable from the Off-Highway Vehicle Fund	5,738,000
3790-001-392—For support of Department of Parks and Recreation, for transfer to Item 3790-001-001, payable from the State Parks and Recreation Fund	34,510,000
3790-001-516—For support of Department of Parks and Recreation, for transfer to Item 3790-001-001, payable from the Harbors and Watercraft Revolving Fund	303,000
Provisions: 1. The funds appropriated in this item are pursuant to subdivision (d) of Section 663.7 of the Harbors and Navigation Code, Harbors and Watercraft Revolving Fund.	
3790-001-890—For support of Department of Parks and Recreation, for transfer to Item 3790-001-001, payable from the Federal Trust Fund	1,555,000

Item — Amount

3790-011-062—For transfer by the State Controller from the Highways Users Tax Account in the Transportation Tax Fund to the State Parks and Recreation Fund, as prescribed by subdivision (a) of Section 2107.7 of the Streets and Highways Code for the support of the Department of Parks and Recreation, for expenditure by the department for maintenance and repair of highways in units of the state park systems; payable from the Highway Users Tax Account, Transportation Tax Fund ..... (1,500,000)

3790-101-001—For local assistance, Department of Parks and Recreation 262,500

Schedule:

(1) 80.80.026—City of Galt, softball fields 100,000

(2) 80.80.059—City of Avenal, Rice Park 133,000

(3) 80.80.095.055—Riverside-Chinatown Archaeological project 29,500

Provisions:

1. No funds appropriated in category (1) of this item for a local assistance grant to the City of Galt shall be encumbered unless and until the city encumbers at least $400,000 of non-state funds for the purpose of the grant project.
2. No funds appropriated in category (2) of this item for a local assistance grant to the City of Avenal shall be encumbered unless and until the city encumbers an amount of non-state funds for the purpose of the grant project that is equal to a least 20 percent of the total amount needed for the project.

(3) None of the funds appropriated in category (3) of this item may be disbursed unless and until the Director of Parks and Recreation determines that funds and in-kind services from non-state sources in an amount at least equal to the amount appropriated in category (3) in this item have been committed to the project for the 1985–86 fiscal year and that the County of Riverside has required that the Riverside Chinatown Project be submitted for a determination of eligibility for nomination to the national register of historic places under the National Historic Preservation Act of 1966. Copies of all reports, memoranda, and analyses of artifacts financed with the funds appropriated in category (3) of this item shall be furnished to the Office of Interpretive Services and the Office of Historic Preservation. Following receipt of the collection, the Riverside Municipal Museum shall make available representative, museum-quality artifacts to the Department of Parks and Recreation on a long-term loan for display at suitable places throughout California, including, particularly, places suitable for the interpretation of the his-

Item		Amount
tory of the Chinese in California.		
3790-101-036—For local assistance, Department of Parks and Recreation, payable from the Special Account for Capital Outlay		4,250,000
Schedule:		
(1) East Bay Regional Park District-Briones Regional Park, Pereira Property	2,000,000	
(2) City of Sunnyvale, Sunnyvale Baylland Park	1,500,000	
(3) City of Los Angeles for the Japanese American National Museum Foundation, Japanese American Museum	750,000	
Provisions:		
(1) No funds appropriated in category (3) of this item for the Japanese American Museum project shall be encumbered unless and until the City of Los Angeles encumbers at least $1,000,000 of nonstate funds for the purposes of the project.		
3790-101-140—For local assistance, Department of Parks and Recreation, payable from the California Environmental License Plate Fund		3,164,500
Schedule:		
(1) City of Walnut Creek, Alexander Lindsay Junior Museum Association	300,000	
(2) City of Downey, Olympic Pool Recreational Complex	500,000	
(3) City of Ripon, Mavis Stouffer Park	128,500	
(4) Pixie Woods Board of Directors, Pixie Woods Children's Park	80,000	
(5) County of San Joaquin, Oak Grove Regional Park, picnic shelter	44,000	
(6) County of San Joaquin, Micke Grove Park	58,000	
(7) County of Sacramento, American River Parkway—acquisition	400,000	
(8) County of Sacramento, Morrison Creek—acquisition	1,400,000	
(9) City of San Ramon, Vista San Ramon Community Park	254,000	
Provisions:		
1. No funds appropriated in this item for a grant to the City of Walnut Creek for purposes of the Alexander Lindsay Junior Museum project shall be encumbered unless and until the Director of Parks and Recreation certifies that, based on competent estimates, sufficient nonstate funds are available, in combination with this appropriation, to complete the project, including all costs of design and construction of the building and exhibits.		

Item		Amount
3790-101-190—For local assistance, Department of Parks and Recreation, payable from the Resources Account, Energy and Resources Fund		486,000
Schedule:		
(1) City of Desert Hot Springs, Wardman Park	20,000	
(2) Lake Elsinore Recreation and Park District, Butterfield Park	150,000	
(3) Southgate Recreation and Park District, Resource-efficient prototype park	166,000	
(4) City of Coachella, Bagdouma Regional Park—tennis courts	150,000	
3790-101-263—For grants to cities, counties, or special districts, and for cooperative agreements with federal agencies, as specified in Division 5 (commencing with Section 5001) of the Public Resources Code, Department of Parks and Recreation, payable from the Off-Highway Vehicle Fund, to be available for expenditure during the 1985–86, 1986–87, and 1987–88 fiscal years		7,501,000
Schedule:		
(1) County of Ventura, Ventura County Off-Highway Vehicle Study	85,000	
(2) County of Placer, Placer County OHV Feasibility Study	20,000	
(3) County of Sacramento, Prairie City Acq. Feas.	40,000	
(4) County of Sacramento, Prairie City O&M	125,000	
(5) County of Sacramento, Prairie City ATV Area Dev.	214,000	
(6) County of Plumas, Big Creek/Bucks Lake—Restrooms	30,000	
(7) County of San Luis Obispo, Oceano Campground	266,000	
(8) County of Riverside, De Anza Development II	1,000,000	
(9) County of Santa Clara, Motorcycle County Park	35,000	
(10) County of Stanislaus, Frank Raines Feas.—II	29,000	
(11) County of Stanislaus, Frank Raines OHV Park Acquisition	2,000,000	
(12) U.S. Bureau of Land Management, Bakersfield District	317,000	
(13) U.S. Bureau of Land Management, Cal Desert District	1,072,000	
(14) U.S. Bureau of Land Management, Ukiah District	34,000	
(15) Angeles National Forest	320,000	
(16) Cleveland National Forest	157,000	
(17) El Dorado National Forest	203,000	
(18) Inyo National Forest	19,000	

Item		Amount
(19) Klamath National Forest	3,000	
(20) Lassen National Forest	24,000	
(21) Mendocino National Forest	351,000	
(22) San Bernardino National Forest	31,000	
(23) Sierra National Forest	45,000	
(24) Stanislaus National Forest	1,017,000	
(25) Tahoe National Forest	64,000	

Provisions:

1. No funds appropriated by this item for the acquisition of the Frank Raines OHV Park shall be encumbered unless and until both the completed feasibility study and environmental impact reports have been reviewed and approved by the Off-Highway Motor Vehicle Recreation Commission and the Stanislaus County Board of Supervisors.

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM

3790-101-721—For grants to counties, cities, and districts, as defined in Section 5096.144 of the Public Resources Code, pursuant to subdivisions (a) and (e) of Section 5096.151 of the Public Resources Code, and for project review, Department of Parks and Recreation, payable from the Parklands Fund of 1980 1,000,000

Schedule:

(a) Project review	152,000	
(b) Project grants	848,000	
Projects in Contra Costa County		
(1) County of Contra Costa, Discovery Bay	93,000	
(2) County of Contra Costa, Kennedy Grove	30,000	
(3) County of Contra Costa, Montarabay	26,000	
Projects in Kern County		
(4) Bear Mt. RPD, Bear Mt. Parks	25,000	
Projects in Los Angeles County		
(5) City of Arcadia, District Recreation Facilities	79,000	
(6) City of South El Monte, New Temple Park	49,000	
Projects in Monterey County		
(7) City of Salinas, Rossi-Rico Neighborhood Park	20,000	
(8) City of King, King City Parks	20,000	

Item		Amount
Projects in Orange County		
(9) City of Orange, Eisenhower Park	60,000	
(10) Cypress Recreation and Park District, Arnold/Cypress Parks	51,000	
Projects in Plumas County		
(11) County of Plumas, Plumas Recreation Facilities ..	20,000	
Projects in San Benito County		
(11.5) Veterans Memorial Park	40,000	
Projects in San Mateo County		
(12) City of Menlo Park, Menlo Park Recreation Facilities	84,000	
Projects in Sonoma County		
(13) County of Sonoma, Cloverdale Community Center	46,000	
(14) County of Sonoma, Maxwell Farms	150,000	
Projects in Riverside County		
(15) City of Indian Wells, Indian Wells Park.....	20,000	
Projects in Ventura County		
(16) City of Port Hueneme, Port Hueneme Parks	35,000	

Provisions:

1. Funds appropriated in category (b) of this item shall be available for acquisition, development, rehabilitation, or any combination thereof, and are available for expenditure during 1985–86, 1986–87, and 1987–88 fiscal years.

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM OF 1984

3790-101-722—For grants to counties, cities, districts, and nonprofit organizations, as defined in Section 5096.228 of the Public Resources Code, pursuant to paragraphs (1) through (5), inclusive, of subdivision (a) of Section 5096.231 of the Public Resources Code, and for project review, Department of Parks and Recreation, payable from the Parklands Fund of 1984 61,953,000

Schedule:

(a) Regional Competitive Program, Public Resources Code Sections 5096.231(a)(1) and 5096.233(b)	28,403,000

Item		Amount
	(1) Project review	58,000
	Projects in Region 1	
	(2) County of Del Norte, Florence Keller Regional Park.....	60,000
	(3) City of Crescent City, Beachfront Park.....	25,000
	(4) City of Fortuna, Newberg Park	50,000
	(5) City of Blue Lake, Prasch Hall	26,000
	(6) Willow Creek C.S.D., Veterans Park.....	15,000
	(7) Lucerne R.P.D., Lucerne Community Park	49,000
	(8) City of Ukiah, Municipal Pool	50,000
	(9) County of Mendocino, Bower Community Park	14,000
	(10) County of Mendocino, Low Gap Regional Park.....	11,000
	Projects in Region 2	
	(11) City of Chico, Bidwell Park.....	70,000
	(12) City of Biggs, Biggs Park	10,000
	(13) County of Colusa, Maxwell Swimming Pool	25,000
	(14) City of Willows, Willows City Pool	31,000
	(15) Butte City C.S.D., Butte City Community Park	23,000
	(16) City of Orland, Orland Pool.....	73,000
	(17) Elk Creek C.S.D., Elk Creek Park	33,000
	(18) City of Susanville, Roosevelt Pool	62,000
	(19) Little Valley C.S.D., Little Valley Park	19,000
	(20) County of Lassen, Lake Forest Park..	40,000
	(21) Leavitt Lake C.S.D., Leavitt Lake Park	45,000

Item	Amount
(22) City of Alturas, Alturas Municipal Pool	40,000
(23) City of Alturas, Arrowhead Golf Course	11,000
(24) City of Alturas, Youth Park	14,000
(25) County of Shasta, French Gulch Park	15,000
(26) County of Shasta, Balls Ferry Park	11,000
(27) City of Redding, Sacramento River Trail	45,000
(28) County of Shasta, Colin Darrah Field	10,000
(29) City of Etna, Etna Swimming Pool	16,000
(30) Weed R.P.D., Weed Swimming Pool	45,000
(31) City of Corning, Yost Park	13,000
(32) City of Corning, Northside Park	16,000
(33) County of Trinity, Hayfork Golf Course	23,000
(34) County of Trinity, Lowden Park	10,000
Projects in Region 3	
(35) El Dorado Hills C.S.D., Swimming Pools	30,000
(36) City of Placerville, Lions Park	93,000
(37) City of Grass Valley, Condon Park	37,000
(38) County of Nevada, Sierra Mountain Park	24,000
(39) Western Gateway R.P.D., Western Gateway Park	50,000
(40) Auburn R.P.D., Recreation Park	40,000
(41) North Tahoe P.U.D., North Tahoe Regional Park	50,000
(42) Elk Grove R.P.D., Feickert Park	85,000

Item		Amount
(43) Mission Oaks R.P.D., Orville Wright Park		85,000
(44) Orangevale R.P. D., Orangevale Park		52,000
(45) Southgate R.P.D., Olde Florintown Park		122,000
(46) County of Sacramento, Del Paso Regional Park		599,000
(47) City of Loyalton, Sierra Valley Historical Park		24,000
(48) City of Davis, Civic Center Gym		138,000
(49) Olivehurst P.U. D., Johnson Park		45,000
(50) County of Yuba, West Linda Park		24,000
Projects in Region 4		
(51) City of Berkeley, Berkeley Fishing Pier		400,000
(52) City of Berkeley, Rose Garden Tennis Courts		173,000
(53) East Bay Regional Park District, Ardenwood Park		525,000
(54) Hayward Area R.P.D., Hayward Shoreline		150,000
(55) Hayward Area R.P.D., College Heights Park		31,000
(56) City of Newwark, Civic Center Park		80,000
(57) City of Oakland, Lions Pool		188,000
(58) City of Oakland, Woodminster amphitheater		270,000
(59) City of Pleasanton, Pleasanton Sports and Recreation Park		250,000
(60) City of Concord, Willow Pass Park		77,000
(61) City of Lafayette, Community Center		100,000
(62) Marinwood C.S. D., Marinwood Playground		27,000

Item	Amount
(63) City of Novato, Hill Recreation Area	175,000
(64) Strawberry R.P.D., Strawberry Pool	75,000
(65) American Canyon C.W.D., American Canyon Park	20,000
(66) City and County of San Francisco, Josephine Randall Jr. Museum	387,000
(67) City and County of San Francisco, Sigmund Stern Grove	100,000
(68) City of Belmont, Twin Pines Park	75,000
(69) City of Foster City, Sea Cloud Park	80,000
(70) Highlands Recreation District, Highlands Recreational Center	19,000
(71) Midpeninsula R.O.S.D., Purisima Creek Redwoods	150,000
(72) County of San Mateo, San Bruno Mountain Park	232,000
(73) City of Campbell, Campbell Community Center Pool	60,000
(74) City of Gilroy, Las Animas Park	245,000
(75) City of Los Altos, Hillview Community Center	48,000
(76) City of Palo Alto, Downtown Park	205,000
(77) City of San Jose, Almaden Lake	411,000
(78) City of San Jose, Ryland Park	457,000
(79) City of San Jose, Southside Community Center	275,000
(80) City of Saratoga, Congress Springs Park	235,000

Item	Amount
(81) City of Vacaville, Eleanor Nelson Park	117,000
(82) City of Healdsburg, Healdsburg High Lights	60,000
(83) City of Rohnert Park, "G" Park	200,000
(84) City of Santa Rosa, Petersen Lane Park	240,000
Projects in Region 5	
(85) County of Alpine, Bear Valley Playfield	84,000
(86) County of Alpine, Turtle Rock Park	116,000
(87) County of Amador, Pioneer Park	28,000
(88) City of Plymouth, Fair Recreation Area	24,000
(89) Angels Camp V.M.D., Swimming Pool	33,000
(90) City of Angels Camp Museum	50,000
(91) Mokelumne Hill V.M.D., Mokelumne Hill Historical Park	59,000
(92) City of Merced, Stephen Leonard Park	150,000
(93) County of Merced, O'Banion Park	79,000
(94) City of Stockton, Panella Park	330,000
(95) City of Hughson, Hughson Community Park	35,000
Projects in Region 6	
(96) City of Fresno, Cary Park	21,000
(97) City of Fresno, Rotary Park	23,000
(98) City of Fresno, Carozza Park	21,000
(99) City of Fresno, Dickey Playground	34,000
(100) City of Fresno, Chandler Park	78,000

Item	Amount
(101) County of Fresno, Avacado Lake	50,000
(102) County of Fresno, Lost Lake	80,000
(103) City of Reedley, Reedley Beach	69,000
(104) City of Bakersfield, Sierra Park	200,000
(105) City of Delano, Cecil Park	126,000
(106) County of Kern, Delano Park	69,000
(107) County of Kern, Digiorgio Park	261,000
(108) City of Shafter, Mannel Park	27,000
(109) County of Kings, Burris Park	119,000
(110) City of Lemoore, Lemoore Field	85,000
(111) City of Chowchilla, Sports and Leisure Park	44,000
(112) City of Madera, Town and Country Park	125,000
(113) County of Mariposa, Woodland Park	20,000
(114) City of Tulare, Cypress Park	112,000
Projects in Region 7	
(115) City of Castroville, Castroville Community Center	26,000
(116) City of Monterey, Bike/Pedestrian Park	60,000
(117) County of Monterey, San Lorenzo Park	72,000
(118) City of Salinas, Sherwood Park	60,000
(119) Soledad-Mission R.D., Domingos Park	63,000
(120) County of San Luis Obispo, El Chorro	150,000
(121) County of San Luis Obispo, Niposo Park	68,000

Item	Amount
(122) City of Santa Barbara, La Mesa Park	95,000
(123) County of Santa Barbara, Arellanes School	35,000
(124) County of Santa Barbara, Arroyo Burro Beach	75,000
(125) County of Santa Barbara, Emerald Terrace	45,000
(126) County of Santa Barbara, Jalama Beach	128,000
(127) County of Santa Barbara, Waller Park	25,000
(128) City of Santa Cruz, De Laveage Park	90,000
(129) County of Santa Cruz, Brommer Park	116,000
Projects in Region 8	
(130) City of Brawley, Hawthorne Park	70,000
(130.1) City of Brawley, Hinojosa Park	70,000
(130.2) City of Brawley, Meserve Park	60,000
(131) City of Calipatria, Eastside Park	40,000
(132) City of El Centro, Swarthout Park	120,000
(133) City of Imperial, Irving Park	18,000
(134) City of Westmoreland, Ball Park	86,000
(135) City of Alhambra, Grenada Park	114,000
(136) City of Azusa, Memorial Park	200,000
(137) City of Baldwin Park, Walnut Creek Park	100,000
(138) City of Bellflower, Simms Park	12,000
(139) City of Bellflower, Thompson Park	25,000

Item	Amount
(140) City of Bellflower, Caruthers Park	35,000
(141) City of Cudahy, Lugo Park	80,000
(142) City of Culver City, Culver City Neighborhood Park	127,000
(143) City of Gardena, Recreation Park	140,000
(144) City of Glendale, Sparr Park	300,000
(145) City of Inglewood, Darby Park	140,000
(146) City of Lancaster, City Park	250,000
(147) City of Long Beach, Carmelitos Park	185,000
(148) City of Long Beach, Hudson Park	215,000
(149) City of Los Angeles, Mt. Carmel Recreation Center	1,530,000
(150) City of Los Angeles, Griffith Park	500,000
(151) City of Los Angeles, Blythe Street Park	12,000
(152) County of Los Angeles, Manhattan S.B.	215,000
(153) County of Los Angeles, Pt. Vicente	31,000
(154) County of Los Angeles, Venice Beach	640,000
(155) County of Los Angeles, Zuma Beach	550,000
(156) County of Los Angeles, Redondo S.B.	217,000
(157) County of Los Angeles, Whittier Narrows	300,000
(158) City of Manhattan Beach, Live Oak Park	39,000
(159) City of Montebello, City Park	140,000

Item	Amount
(160) City of Paramount, Community Center	200,000
(161) City of Pasadena, Victory Park	190,000
(162) City of Pico Rivera, Rio Hondo	116,000
(163) City of San Dimas, Sycamore Park	200,000
(164) City of San Gabriel, Smith Park	269,000
(165) City of South Gate, Hollydale Park	127,000
(166) City of South Gate, Recreation Park	200,000
(167) City of South Pasadena, Arroyo Park	120,000
(168) City of West Covina, Cameron Park	70,000
(169) City of West Covina, Orangewood Park	70,000
(170) City of West Covina, Walmerado Park	70,000
(171) City of Anaheim, Imperial Park	228,000
(172) City of Anaheim, Oak Canyon Nature Center	40,000
(173) City of Anaheim, Peralta Canyon	50,000
(174) Capistrano Bay R.P.D., Community Center	388,000
(175) City of Fullerton, Pacific Drive	150,000
(176) City of Fountain Valley, Fountain Valley Field Lights	120,000
(177) City of La Palma, Central Park	25,000
(178) City of Los Alamitos, Community Center	170,000
(179) County of Orange, Los Coyotes Regional Park	470,000
(180) County of Orange, Melinda Park	250,000

Item	Amount
(181) City of San Juan Capistrano, Cook Park	50,000
(182) City of Tustin, Columbus/Tustin Park	115,000
(183) City of Yorba Linda, Valley View Park	215,000
(184) City of Banning, Repplier Park	35,000
(185) City of Banning, Sylvan Park	29,000
(186) Beaumont-Cherry Valley R.P.D., Noble Creek Park	75,000
(187) City of Corona, Riverroad Park	240,000
(188) City of Desert Hot Springs, Eastside Park	43,000
(189) City of Indio, Miles Avenue Park	70,000
(190) City of Norco, Community Center Ballfield	47,000
(191) City of Palm Springs, Demuth Park	140,000
(192) City of Riverside, Mt. View Park	190,000
(193) City of Riverside, Fairmount Park	228,000
(194) County of Riverside, Lake Skinner	300,000
(195) County of Riverside, Bogart Park	217,000
(196) Valleywide R.P.D., Winchester Park	72,000
(197) Apple Valley R.P.D., Community Center Park	61,000
(198) Barstow R.P.D., Lillian Park	14,000
(199) Big Bear Valley R.P.D., Sugarloaf Park	18,000
(200) Bloomington R.P.D., Ayala Park	42,000
(201) City of Fontana, Martin Tudor Jurupa Hills Regional Park	463,000

Item	Amount
(202) City of Needles, Duke Watkins Park	13,000
(203) Rim of the World R.P.D., Crestline Village Park	57,000
(204) City of San Bernardino, Perris Hill Park	50,000
(205) County of San Bernardino, Midway	70,000
(206) County of San Bernardino, Pinon Hills Park	50,000
(207) Twenty-Nine Palms R.P.D., Knott Sky Park	112,000
(208) City of Oxnard, Sea Air Park	226,000
(209) Rancho Simi R.P.D., Ranch-Santa Susana Park	226,000
(210) City of San Buenaventura, Saticoy Park	125,000
(211) County of Ventura, Oak Park	100,000
Projects in Region 9	
(212) City of Carlsbad, Calavera Hills	145,000
(213) City of Escondido, Kit Carson Park	63,000
(214) City of La Mesa, Harry Griffin Park	110,000
(215) City of National City, Community Center	150,000
(216) Padre Dam M.W.D., Santee Lakes	142,000
(217) City of Poway, Community Park Playground	30,000
(218) City of San Diego, Howard Lane Park	315,000
(219) City of San Diego, Murray Ridge	350,000
(220) County of San Diego, Sweetwater Regional Park	500,000

Item		Amount
	(221) City of San Marcos, City Park 195,000	
	(222) Valley Center C.S.D., Sports Fields 68,000	
	(223) City of Vista, Breeze Hills 55,000	
	Projects in Region 10	
	(224) County of Inyo, Inyo County Parks 75,000	
	(225) County of Mono, Mono County Parks 75,000	
(b)	Lakes, Reservoirs and Waterways Program, Public Resources Code Section 5096.231(a) (2)	5,265,000
	Projects in Calaveras County	
	(2) East Bay Municipal Utility District, Lake Camanche.... 125,000	
	Projects in Contra Costa County	
	(3) East Bay Regional Park District, Contra Loma Lake 313,000	
	(4) East Bay Municipal Utility District, San Pablo Reservoir 408,000	
	Projects in El Dorado County	
	(5) El Dorado Irrigation District, Sly Park Reservoir 11,000	
	Projects in Fresno County	
	(6) County of Fresno, Kings River Staging Area 37,000	
	(7) County of Fresno, Pine Flat Handicapped Fishing Access 13,000	
	(8) County of Fresno, Lost Lake Handicapped Fishing Access 15,000	
	Projects in Kern County	
	(9) County of Kern, Hart Lake 335,000	
	Projects in Lake County	
	(10) City of Lakeport, Third St. Boat Dock 51,000	
	Projects in Los Angeles County	
	(11) County of Los Angeles, Bonelli Park 500,000	

Item	Amount
(12) County of Los Angeles, Peck Water Conservation Park	150,000
Projects in Mendocino County	
(13) County of Mendocino, Mill Creek Reservoir	40,000
Projects in Mariposa County	
(14) Merced Irrigation District, Lake McSwain	292,000
Projects in Monterey County	
(15) County of Monterey, Lake San Antonio	110,000
Projects in Nevada County	
(16) Nevada Irrigation District, Scotts Flat Lake	18,000
Projects in San Diego County	
(17) City of San Diego, Lake Otay	36,000
(18) City of San Diego, Lake Murray	168,000
(19) City of San Diego, Lake Hodges	168,000
(20) City of San Diego, Lake Mirimar	72,000
(21) City of Escondido, Dixon Lake	52,000
(22) City of Poway, Lake Poway	190,000
Projects in San Joaquin County	
(22.1) Durham Ferry	315,000
Projects in San Luis Obispo County	
(23) County of San Luis Obispo, Lopez Reservoir	206,000
Projects in San Mateo County	
(24) City of San Mateo, Parkside Aquatic Park	250,000
Projects in Santa Barbara County	
(25) County of Santa Barbara, Lake Cachuma	318,000
Projects in Santa Cruz County	
(26) County of Santa Cruz, Freedom Lake	60,000
Projects in Ventura County	
(27) United Water Conservation District, Lake Piru	862,000

Item		Amount
	Projects in Yolo County	
	(28) County of Yolo, Cache Creek Canyon 150,000	
(c)	Roberti-Z'berg Urban Open Space and Recreation Program, Public Resources Code, Section 5096.231(a)(3)	22,500,000
	(1) Project review 225,000	
	(2) Project grants 22,275,000	
(d)	Historical Preservation Program, Public Resources Code Section 5096.231(a)(4)	4,300,000
	(1) Project review 40,000	
	Projects in Alameda County	
	(2) City of Hayward, Meek Mansion 80,000	
	(3) City of Livermore, Highway Garage .. 12,000	
	(4) City of Livermore, Ravenswood 140,000	
	Projects in Amador County	
	(5) County of Amador, Butte Store (Butte City) 95,000	
	(6) County of Amador, Chew Kee Store (Fiddletown) 88,000	
	Projects in Calaveras County	
	(7) City of Angels Camp, Sam Choy Store 50,000	
	Projects in Colusa County	
	(8) City of Colusa, Old Carnegie Library .. 30,000	
	Projects in Contra Costa County	
	(9) City of Hercules, Hercules Club House 90,000	
	(10) City of Walnut Creek, Old Borges Ranch 78,000	
	Projects in El Dorado County	
	(11) City of Placerville, Gold Bug Mine 94,000	
	Projects in Glenn County	
	(12) City of Orland, Carnegie Center Library (City Hall) 30,000	
	Projects in Humboldt County	
	(13) City of Arcata, Arcata Hotel 142,000	

Item	Amount
Projects in Kern County	
(14) County of Kern, Kern Branch Beale Memorial Library (Bakersfield)	125,000
Projects in Los Angeles County	
(15) City of Los Angeles, El Greco Apts (Hollywood)	100,000
(16) City of Los Angeles, El Pueblo de Los Angeles: Italian Hall and Siqueiros Mural	100,000
(17) City of Los Angeles, El Pueblo de Los Angeles: Plaza Substation	150,000
(18) City of Los Angeles, Watts Station (Watts)	100,000
(19) Los Angeles County, Hollywood Studio Museum: DeMille Barn	10,000
(20) City of Pasadena, Pasadena City Hall	150,000
(21) City of Pomona, LaCasa Primera de Rancho San Jose....	95,000
Projects in Mendocino County	
(22) City of Fort Bragg, Old Fort Bragg Community Club (City Hall) ..	100,000
Projects in Modoc County	
(23) County of Modoc, Belli Building (Alturas)	120,000
Projects in Mono County	
(24) County of Mono, County Court House (Bridgeport)	20,000
Projects in Monterey County	
(25) City of Pacific Grove, Chautauqua Hall	50,000
Projects in Nevada County	
(26) City of Grass Valley, North Star Mine Powerhouse	35,000
Projects in Orange County	
(27) County of Orange, Court House (Santa Ana)	140,000

Item	Amount
Projects in Placer County	
(28) County of Placer, Placer County Court House (Auburn)	150,000
(29) City of Roseville, Roseville Carnegie Library	27,000
Projects in Riverside County	
(30) County of Riverside, Jensen Alvarado Ranch (Rubidoux)	100,000
(31) City of Perris, Southern Hotel	75,000
Projects in San Bernardino County	
(32) City of Redlands, A. K. Smiley Library	83,000
Projects in San Diego County	
(33) City of San Diego, Mission Beach Roller Coaster	150,000
(33.1) County of San Diego, Temple Beth Israel	300,000
Projects in San Joaquin County	
(34) City of Lodi, Lodi Union High School Community Theater	10,000
Projects in San Luis Obispo County	
(35) County of San Luis Obispo, Carnegie Library (San Luis Obispo)	85,000
(36) City of Atascadero, Administration Building	300,000
(37) City of San Luis Obispo, Jack House	16,000
Projects in San Mateo County	
(38) County of San Mateo, San Mateo County Court House (Redwood City)	150,000
(39) City of Half Moon Bay, James Johnston House	50,000
Projects in Santa Barbara County	
(40) City of Santa Barbara, Montarioso: Main House	140,000

Item		Amount
	Projects in Santa Cruz County	
	(41) County of Santa Cruz, Felton Covered Bridge 86,000	
	Projects in Shasta County	
	(42) City of Redding, Old City Hall Community Center 104,000	
	Projects in Siskiyou County	
	(43) City of Dorris, Dorris Community Hall 50,000	
	Projects in Solano County	
	(44) City of Vacaville, Vacaville Town Hall 60,000	
	Projects in Stanislaus County	
	(45) City of Modesto, McHenry Mansion 100,000	
(e)	Nonprofit Program, Public Resources Code Section 5096.231(a)(5)	1,485,000
	Projects in Alameda County	
	(2) Society for the Preservation of Carter Railroad Resources, Ardenwood Railroad Park Track Module 20,000	
	(3) Oakland Police Activities League, Summer Camp..... 30,000	
	Projects in Colusa County	
	(4) Community Theatre Foundation, Inc. Historic Colusa High School..... 22,000	
	Projects in Contra Costa County	
	(5) Heather Farm Garden Center Assoc., Demonstration Garden..... 53,000	
	Projects in Imperial County	
	(6) Imperial Lions Club, Imperial Community Swimming Pool Park Renovation 75,000	
	Projects in Kern County	
	(7) California Living Museum, Museum Center 75,000	

Item		Amount
	Projects in Los Angeles County	
(8)	Delhaven Community Center, Community Center	75,000
(9)	Monrovia Historical Museum Foundation, Community Center/Museum	50,000
(10)	Los Angeles Philharmonic Assoc., Hollywood Bowl Improvements	65,000
	Projects in Marin County	
(11)	YMCA Point Bonita Outdoor Conference, YMCA Point Bonita	50,000
	Projects in Monterey County	
(12)	Big Sur Land Trust, Coastline Acquisition	100,000
(13)	North Monterey County Youth Recreation Assoc., Soccer Field	25,000
	Projects in Orange County	
(14)	Friends of Santa Ana Zoo, Concession Building	50,000
(15)	American Youth Hostels, Fullerton Hacienda Hotel	34,000
	Projects in Riverside County	
(16)	Riverside Sports Organization, Inc., Youth Sports Complex	50,000
(17)	Hemet-San Jacinto YMCA, Aquatics Center Winterization	22,000
	Projects in Sacramento County	
(18)	Sacramento Zoological Society, Outdoor Interpretive Center	75,000
	Projects in San Bernardino County	
(19)	Tri Valley Little League, Inc., Road Runner Park Improvement	26,000

Item		Amount
	Projects in San Diego County	
	(20) Buena Vista Lagoon Foundation, Duck Landing Restoration	30,000
	Projects in San Mateo County	
	(21) SAMPAC Restoration Campaign, Renovate Performing Arts Center	50,000
	(22) Coyote Point Museum Assoc., Wildlife Center	45,000
	Projects in Santa Barbara County	
	(23) Friends of Waller Park, Lake Development	75,000
	(24) El Comite Civico Mexicano de Guadalupe, Centro Cultural de Recreacion	100,000
	Projects in Santa Clara County	
	(25) Trust for Hidden Villa, Hidden Villa Interpretive Center	88,000
	Projects in Santa Cruz County	
	(26) Santa Cruz County Aquatics Team, 50 Meter Pool Aquatics Complex	150,000
	Projects in Shasta County	
	(27) Clear Creek Canyon Little League, Happy Valley Park and Baseball Fields	11,000
	Projects in Sonoma County	
	(28) Sonoma Community Center, Auditorium Upgrading	19,000
	Projects in Tulare County	
	(29) Tulare Baseball Assoc., Baseball Field Expansion	20,000

Provisions:

1. Except for project review schedules at paragraph (1) of category (a), at paragraph (1) of category (c), and at paragraph (1) of category (d), funds appropriated in this item shall be available for expenditure during the 1985–86, 1986–87, and 1987–88 fiscal years.

Item			Amount
STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES FUND OF 1964			
3790-101-732—For local assistance, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964			114,000
Schedule:			
(1) County of San Benito: San Justo Reservoir		114,000	
STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1974			
3790-101-733—For local assistance, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974			45,000
Schedule:			
(a) Project review		45,000	
NEJEDLY-HART STATE, URBAN AND COASTAL PARK BOND ACT PROGRAM			
3790-101-742—For local assistance, Department of Parks and Recreation, payable from the State, Urban and Coastal Park Fund			368,000
Schedule:			
(1) Project review		151,000	
(2) County of Riverside, Lake Cahuilla County Park		10,000	
(3) City of Oakland, Temescal Pool		104,000	
(4) City of Oakland, Fremont Pool		103,000	
Provisions:			
1. Except for category (1), the funds appropriated in this item shall be available for expenditure during the 1985–86, 1986–87, and 1987–88 fiscal years.			
3790-101-890—For local assistance, Department of Parks and Recreation, payable from the Federal Trust Fund to be available for expenditure during the 1985–86, 1986–87, and 1987–88 fiscal years			$1,716,552
Schedule:			
(a) National Historic Preservation Act of 1966		45,321	
1) Northern California	22,660		
2) Southern California	22,661		
(b) Land & Water Conservation Fund Act of 1965		1,671,231	
3790-301-036—For Capital Outlay, Department of Parks and Recreation, payable from the Special Account for Capital Outlay			19,095,000
Schedule:			
(1) 90.RS.400-Acquisition Costs		150,000	

Item		Amount
(2) 90.3F.100-Benbow Lake SRA—Dam renovation—working drawings and construction		346,000
(2.5) 90.H6.100-Cuyamaca Rancho SP—development		1,000,000
(3) 90.RS.600-Design and construction planning		601,000
(4) 90.AN.100-Empire Mine SHP—mine shaft and viewing platform—safety repairs		81,000
(5) 90.8V.100-Folsom Lake SRA—Negro Bar campground—construction		655,000
(5.5) 90.3C.100-Fort Humboldt SHP—Restoration, items to complete		61,000
(6) 90.DQ.100-Hearst San Simeon SHM—continuing rehabilitation and artifact restoration		505,000
(6.5) 90.CO.400-Henry Coe SP-Bell Station Access—Acquisition		250,000
(7) 90.9W.100-Malakoff Diggins SHP—sedimentation runoff studies		75,000
(8) 90.AI.100-Millerton Lake SRA—Administrative building and parking—working drawings and construction		300,000
(9) 90.RS.200-Minor projects		518,000
(a) Accessibility expansion	217,000	
(b) Energy efficiency program	301,000	
(10) 90.8X.100-Plumas-Eureka SHP—Mohawk Stamp Mill structural stabilization		315,000
(11) 90.RS.400-Pre-budget appraisals		90,000
(12) 90.RS.600-Preliminary planning		100,000
(12.2) 90.HO.400 Rancho Buena Vista—Acquisition		1,750,000
(12.5) 90.99.100-San Luis Reservoir SRA—Family Campground and Day Use Area—facility development		1,500,000
(13) 90.IF.100-San Onofre SB—water supply reservoir		100,000
(14) 90.IF.100-San Onofre SB—Parcel 1 recreation facility—working drawings and construction		4,140,000
(14.5) 90.3P.400-Sinkyone Wilderness SP—Acquisition		4,000,000
(15) 90.94.100-Stanford House SHP—working drawings and equipment		98,000
(16) 90.RS.100-Statewide Natural Systems Rehabilitation		852,000

Item		Amount
(17) 90.RS.100-Statewide rehabilitation or replacement of worn-out facilities	1,553,000	
(b) Calaveras Big Trees SP—parkway	1,553,000	
(18) 90.CO.400-Wilder Ranch SP—Scaroni Ranch acquisition	3,880,000	
(19) 90.3L.100-Woodson Bridge SRA—Erosion control—road relocation and studies	75,000	
(20) Reimbursement	−3,900,000	

Provisions:

1. Notwithstanding Section 2.00 of this act, funds appropriated in categories (1), (11), and (16) shall be available for expenditure only during the 1985–86 fiscal year.
2. No funds appropriated in category (14) of this item for construction of campground facilities at San Onofre State Beach shall be encumbered unless and until the Department of Parks and Recreation has received at least $3,900,000 of reimbursements from the reserve account established for the purpose of that project by the Coastal Commission, the Southern California Edison Company and the San Diego Gas and Electric Company. Funds appropriated for working drawings and agency retained items which are needed for expenditure prior to construction, however, may be encumbered prior to receipt of the reimbursements. The State Public Works Board shall transfer funds appropriated in category (14) of this item to the unappropriated surplus of the Special Account for Capital Outlay in the General Fund to the extent that reimbursements received for the project exceed $3,900,000.
3. No funds appropriated in category (12.2) of this item for the Rancho Buena Vista project shall be encumbered unless and until the department enters into a 20-year agreement with the City of Vista for the operation and maintenance, at no cost to the state, of the Rancho Buena Vista.

3790-301-263—For Capital Outlay, Department of Parks and Recreation, payable from the Off-Highway Vehicle Fund		9,571,000
Schedule:		
(1) 90.RS.400-Acquisition Costs	30,000	
(2) 90.7K.400-Carnegie SVRA—acquisition	35,000	
(3) 90.EH.100-Hungry Valley SVRA—Initial development, phase II—partial construction	311,000	
(4) 90.A1.400-Martin Ranch—acquisition	7,720,000	
(5) 90.RS.200-Minor projects	1,275,000	
(6) 90.RS.400-Opportunity purchases	100,000	

Item		Amount
(7) 90.RS.400-Pre-budget appraisals....	50,000	
(8) 90.RS.600-Preliminary planning....	50,000	

Provisions:

1. Notwithstanding Section 2.00 of this act, funds appropriated in categories (6) and (7) shall be available for expenditure only during the 1985–86 fiscal year.
2. Funds appropriated in category (6) for opportunity purchases are available for acquisition of lands contiguous to lands of the State Vehicular Recreation Area and Trail System from willing sellers only. No funds for an opportunity acquisition may be encumbered until the specific acquisition has been approved by the Off-Highway Motor Vehicle Recreation Commission.

3790-301-392—For Capital Outlay, Department of Parks and Recreation, payable from the State Park and Recreation Fund 4,179,000

Schedule:

(1) 90.RS.200-Minor projects	4,179,000	

PARKLANDS ACQUISITION AND DEVELOPMENT

3790-301-721—For Capital Outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1980 1,351,000

Schedule:

(1) 90.RS.600 Design and construction planning	1,351,000	

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM OF 1984

3790-301-722—For Capital Outlay, Department of Parks and Recreation, payable from the Parklands Fund of 1984 54,010,000

Schedule:

(1) 90.RS.400-Pre-Budget appraisals....	90,000	
(2) 90.RS.600-Preliminary planning....	150,000	
(3) 90.6C.100.85 Ano Nuevo SR—Working drawings and construct visitor center and building restoration	1,458,000	
(3.5) 90.6C.400.851 Ano Nuevo SR—Ano Nuevo Dunes—acquisition....	150,000	
(4) 90.6C.400.85 Ano Nuevo SR—Cascade Ranch Acquisition	3,555,000	
(4.1) 90.EC.400.000-Baldwin Hills SRA —acquisition	3,000,000	
(4.2) 90.EC.100.852 Baldwin Hills SRA —ridge area development	3,500,000	
(5) 90.62.100.85 Bale Grist Mill SHP—Items to complete and reconstruction	135,000	

Item		Amount
(6)	90.BA.400 Big Basin Redwoods SP—acquisition, Little Basin	1,175,000
(7)	90.DN.100.85 Big Sur Coast—Planning, working drawings and construct immediate public use facilities	467,000
(8)	90.8Q.600.85 Brannan Island—General Plan	185,000
(8.1)	90.FU.400.000 California Citrus SHP—acquisition	3,000,000
(9)	90.5Y.100.85 Candlestick Point SRA—Working drawings and day-use facilities	800,000
(10)	90.E4.400.85 Chino Hills SP—Acquisition	4,790,000
(10.1)	90.E4.400.852 Chino Hills SP—Brea Olinda wilderness acquisition	5,200,000
(11)	90.62.400.85 Clear Lake SP—Acquisition	153,000
(12)	90.9H.100.85 Colonel Allensworth SHP—Working drawings and construct building restoration	352,000
(12.2)	90.9E.400.851 Delta Meadows Project—Acquisition	500,000
(13)	90.RS.600.852 Design and construction planning	261,000
(15)	90.8U.100.85 Folsom Lake SRA—Working drawings and construct north Granite Bay access	81,000
(15.3)	90.7P.100 Half Moon Bay SB—campground development	2,500,000
(16)	90.C0.100.85 Henry W. Coe SP—Working drawings and construct initial development	1,031,000
(17)	90.C0.400.85 Henry W. Coe SP—Acquisition	490,000
(18)	90.AD.100.85 Indian Grinding Rock SHP—Working drawings and construct Regional Indian Museum	636,000
(18.1)	90.95.100.851 Little Frank's Tract—Development	750,000
(18.2)	90.F6.400.851 Los Encinos SHP—Indian Artifact Museum, feasibility study	50,000
(18.4)	90.EX.400 Malibu Creek SP—acquisition	347,000
(19)	90.BK.100.85 Manresa SB—Working drawings for campground and beach access	144,000
(20)	90.CN.100.85 Monterey SHP—First brick house reconstruction	208,000
(20.1)	Mount Diablo SP—acquisition	3,000,000

Item	Amount
(20.2) 90.5N.500.851 Mount Diablo SP —Communications tower study ..	250,000
(21) 90.RS.200.851 Natural Resources stewardship—minor projects	1,946,000
(22) 90.AC.100.85 Old Sacramento SHP—Planning and working drawings for waterfront.....	178,000
(23) 90.AC.400.851 Old Sacramento SHP—Acquisition, Railroad Excursion Line	1,988,000
(23.5) 90.AC.100.85 Old Sacramento SHP—Working drawings and construct Railroad Excursion Line	533,000
(24) 90.IJ.100.85 Old Town San Diego SHP—Phase IV working drawings and construction	247,000
(25) 90.2Y.100.85 Patrick's Point SP—Working drawings and construct Native Village.....	681,000
(26) 90.CG.600.85 Pfeiffer Big Sur SP —General Plan.....	185,000
(26.1) 90.7Q.100.851 Pigeon Point and Montara lighthouse hostels—fire and life safety.....	150,000
(27) 90.G3.100.85 Regional Indian Museum (Antelope Valley)—Working drawings and construction.....	211,000
(28) 90.8L.100.85 Regional Indian Museum (Sacramento)—Construction.....	266,000
(29) 90.RS.800.85 Reimbursements	−1,847,000
(30) 90.HJ.100.85 San Diego Coast SB —(Torrey Pines) Working drawings and construction for day and overnight use	166,000
(31) 90.7P.100.85 San Mateo Coast SB —Working drawings and construction for access improvements	1,438,000
(32) 90.C1.100.85 Santa Cruz Mission SHP—Reconstruction of Neary Rodriguez Adobe.....	304,000
(33) 90.C1.400.85 Santa Cruz Mission SHP—Acquisition	703,000
(35) 90.EX.100.85 Santa Monica Mountains (Malibu Creek SP)—Working drawings and equipment	230,000
(36.1) 90.3P.400.851 Sinkyone Wilderness SP—Acquisition.....	2,000,000
(36.2) 90.9Z.100.851 South Yuba Trail —Development	70,000
(36.3) 90.RS.400.855 Statewide appraisal costs	300,000
(36.4) 90.CS.400 South Monterey Bay Dunes, ARCO Bosland property acquisition	1,200,000

Item	Amount
(37) 90.RS.100.85 Statewide Interpretive/Artifact/Exhibit Rehabilitation	250,000
(38) 90.RS.400.852 Statewide Inholding Purchases	500,000
(39) 90.RS.400.853 Statewide Opportunity Purchases	500,000
(41) 90.RS.100.853 Statewide Topographic Surveys	350,000
(42) 90.6V.400.85 Sugarloaf Ridge SP —Acquisition	196,000
(43) 90.9F.100.85 Sugar Pine Point SP —Working drawings and construction for bicycle trail	277,000
(44) 90.RS.200.852 Volunteer Programs—Minor projects	1,000,000
(45) 90.GL.400.85 Verdugo Mountains Project—Acquisition	775,000
(46) 90.C0.100.85 Wilder Ranch SP—Working drawings for restoration	255,000
(47) 90.C0.500.85 Wilder Ranch SP—Utilites study topographic survey	50,000
(48) 90.93.100.85 Woodland Opera House SHP—Working drawings and construction for Phase IV restoration	500,000

Provisions:

1. Notwithstanding Section 2.00 of this act, funds appropriated in category (1) shall be available for expenditure only during the 1985–86 fiscal year.
3. Funds appropriated in category (10) for acquisitions as additions to Chino Hills State Park shall be encumbered subject to the following conditions:
   (a) The Bryant property which the state has an option to purchase for approximately $4,800,000 shall be the first priority for acquisition by the Department of Parks and Recreation.
   (b) In the event that the purchase is not completed, then any remaining funds shall be reappropriated for the acquisition of property commonly known as the Brea-Olinda Wilderness Area, Rimpau, Chevron, Lamb, Hobbs, Brown, or any other high priority property in the Chino Hills area.
4. Funds appropriated in category (10.1) for acquisitions as additions to Chino Hills State Park shall be encumbered subject to the following conditions:
   (a) The Shell Oil property which is commonly known as the Brea-Olinda Wilderness Area (approximately 1,100 acres) shall be acquired or leased by the Department of

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Parks and Recreation. However, a maximum of $11,000,000 shall be expended to purchase the 1100 acres.

(b) If the owner has not reached agreement with the Department of Parks and Recreation by June 30, 1988, then the funds that would have been available for acquisition of the property are reappropriated for the acquisition of other properties commonly known as Rimpau, Chevron, Lamb, Hobbs, Brown, Getty, or any other high priority property in the Chino Hills project area.

5. Funds appropriated in category (17) of this item for the acquisition of lands for the Coit Ranch access at Henry W. Coe State Park shall not be encumbered unless and until the Director of Parks and Recreation determines the portion of the acquisition which ultimately will not be required for the purpose of park access and reports his finding to the State Public Works Board. Upon completion of the acquisition, the Director of General Services shall offer for sale for fair market value that portion of the acquired lands which the Director of Parks and Recreation and the State Public Works Board have determined is not needed for the purpose of park access. The sale proceeds shall be deposited in the Parklands Fund of 1984.
6. The funds appropriated in category (4) are approved with the condition that there shall be a 30-day review by the Joint Legislative Budget Committee prior to Public Works Board action.
7. No funds appropriated in category (3) of this item for construction of a visitor center at Ano Nuevo State Reserve shall be encumbered unless and until the Director of Parks and Recreation certifies to the State Public Works Board that at least $1,000,000 of nonstate funds is available for the purposes of the project for eventual reimbursement to this item. Funds for working drawings and agency retained items, however, which are needed for expenditure prior to construction, may be encumbered prior to the above certification.
8. Funds appropriated in categories (23) and (23.5) for the acquisition and development of the Old Sacramento Railroad Excursion Line shall not provide for passenger origination from Land Park.

RECREATION AND FISH AND WILDLIFE ENHANCEMENT FUND

3790-301-728—For Capital Outlay, Department of Parks and Recreation, payable from the Recreation and Fish and Wildlife Enhancement Fund 100,000

Item		Amount
Schedule:		
(1) 90.RS.600-Design and construction planning	100,000	

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1974 PROGRAM

3790-301-733—For Capital Outlay, Department of Parks and Recreation, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974		78,000
Schedule:		
(1) 90.RS.600-Design and construction planning	78,000	

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		375,000
Schedule:		
(1) 90.RS.600-Design and construction planning	375,000	
3790-301-890—For Capital Outlay, Department of Parks and Recreation, payable from the Federal Trust Fund		650,000
Schedule:		
(1) 90.HA.400-Anza Borrego Desert State Park—acquisition	50,000	
(2) 90.BA.400-Big Basin Redwoods State Park and Castle Rock State Park—acquisition	300,000	
(3) 90.RS.400-California Redwoods Parks—acquisition	250,000	
(4) 90.RS.400.853—Opportunity purchases	50,000	
Provisions:		
1. Notwithstanding Section 5006.15 of the Public Resources Code, during the 1985–86 fiscal year, the proceeds from sales of surplus properties at Anza Borrego Desert State Park authorized by Chapter 1384 of the Statutes of 1984 shall be deposited in the Federal Trust Fund and shall, consistent with the provisions of Chapter 1384 of the Statutes of 1984, be used solely for the acquisition of inholdings at Anza Borrego Desert State Park. The appropriation made by this item for the acquisition of inholdings at Anza Borrego Desert State Park shall be funded solely from those proceeds and shall be used to acquire properties at a price equal to one-half of the property's fair market value or less.		

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3790-490—Reappropriation, Department of Parks and Recreation. Notwithstanding any other provisions of law, the unencumbered balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes (and subject to the limitations unless otherwise specified) provided for in such appropriations, and shall be available for expenditure until June 30, 1986.

036—Special Account for Capital Outlay

(1) Item 3790-301-036(2), Budget Act of 1984, Ano Nuevo SR—working drawings and construction, day use, Phase II.

(2) Item 3790-301-036(4), Budget Act of 1984, China Camp SP—working drawings and construct sewer system.

(3) Item 3790-301-036(7), Budget Act of 1984, East Bay Shoreline Project—acquisition and development.

(4) Item 3790-301-036(8), Budget Act of 1984, Folsom Lake SRA—working drawings for Negro Bar enhancement.

(5) Item 3790-301-036(9), Budget Act of 1984, Fort Ross SHP—working drawings and construct campground rehabilitation.

(6) Item 3790-301-036(13), Budget Act of 1984, Humboldt Redwoods SP—working drawings and construct bank protection.

(7) Item 3790-301-036(16), Budget Act of 1984, Malakoff Diggins SHP—sediment run-off study.

(8) Item 3790-301-036(17d), Budget Act of 1984, Statewide Minor Projects.

(9) Item 3790-301-036(17f), Budget Act of 1984, Natural Systems Rehabilitation.

(10) Item 3790-301-036(18.5), Budget Act of 1984, Motion Picture Museum—site selection study.

(11) Item 3790-301-036(20), Budget Act of 1984, Pfeiffer Big Sur Project—working drawings and construct sewage treatment improvements.

(12) Item 3790-301-036(23), Budget Act of 1984, San Diego Coast SB—construct day use parking and rehabilitation.

(13) Item 3790-301-036(24), Budget Act of 1984, San Mateo SB—construct access improvements.

(14) Item 3790-301-036(27), Budget Act of 1984, Statewide Storm Damage Repairs.

(15) Item 3790-301-036(28), Budget Act of 1984, Statewide Pier Inspections—working drawings and emergency repairs.

(16) Item 3790-301-036(29), Budget Act of 1984, Statewide Replacement or Rehabilitation of Existing Facilities.

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(17) Item 3790-301-036(30), Budget Act of 1984, Woodson Bridge SRA—erosion control study.

(18) Section 1, Chapter 1548, Statutes of 1984, John Marsh Home—restoration.

140—California Environmental License Plate Fund

(1) Item 3790-301-140(1), Budget Act of 1984, Kings Beach SRA—facility improvement.

263—Off-Highway Vehicle Fund

(1) Item 403.5(b), Budget Act of 1977, Hungry Valley SVRA—planning and operations.

(2) Item 466(a), Budget Act of 1979, Pismo Dunes SVRA—acquisition.

(3) Item 3790-301-263(a), Budget Act of 1982, Hungry Valley SVRA—equip Off-Highway vehicle area.

(4) Item 3790-301-263(f), Budget Act of 1982, Relocation Assistance.

(5) Item 3790-301-263(b), Budget Act of 1983, Pismo Dunes SVRA, Dune Revegetation and Stabilization—Working drawings and construction.

(6) Section 7(a), Chapter 1298, Statutes of 1983, Capital Outlay Projects at Hungry Valley SVRA.

(7) Item 3790-301-263(f), Budget Act of 1983, Hollister Hills SVRA—facilities development and construction.

(8) Item 3790-301-263(g), Budget Act of 1983, Minor Projects.

(9) Item 3790-301-263(1), Budget Act of 1984, Carnegie SVRA—construct initial development.

(10) Item 3790-301-263(3), Budget Act of 1984, Ocotillo Wells—construct initial development.

(11) Item 3790-301-263(4), Budget Act of 1984, Minor Projects.

(12) Item 3790-301-263(5), Budget Act of 1984, Preliminary Planning.

392—State Park and Recreation Fund

(1) Item 379-301-392(z), Budget Act of 1981, Railtown—acquisition and development.

(2) Item 3790-301-392(b), Budget Act of 1982, Hearst San Simeon SHM—construct road repair.

(3) Item 3790-301-392(d), Budget Act of 1982, Hearst San Simeon SHM—construct water system improvement.

(4) Section 8, Chapter 1421, Statutes of 1982, Malibu Bluffs Project—development.

(5) Item 3790-301-392(a), Budget Act of 1983, as added by Chapter 37, Statutes of 1984, Sinkyone Trail Corridor—trail camps and trail construction.

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(6) Item 3790-301-392(n), Budget Act of 1983, Statewide Storm Damage.

721—Parklands Fund of 1980

(1) Item 379-301-721(c), Budget Act of 1981, Sinkyone Wilderness SP—preliminary planning and construction.

(2) Item 379-301-721(R), Budget Act of 1981, Angel Island SP—construction of day-use facilities.

(3) Item 379-301-721(q), Budget Act of 1981, Malibu Creek SP—construction of day-use facilities.

(4) Item 3790-301-721(E), Budget Act of 1982, China Camp SP—working drawings and construct village restoration.

(5) Item 3790-301-721(f), Budget Act of 1982, Colonel Allensworth SHP—working drawings and construct restoration and site work.

(6) Item 3790-301-721(q), Budget Act of 1982, Old Sacramento SHP—working drawings and partial construction of 1849 scene.

(7) Item 3790-301-721(r), Budget Act of 1982, Old Town San Diego SHP—working drawings and construct U.S. House, Light, Freeman, and Wrightington Adobes.

(8) Item 3790-301-721(s), Budget Act of 1982, San Simeon SB—working drawings and construct day-use, campground, and sewer hook-up.

(9) Item 3790-301-721(u), Budget Act of 1982, Schooner Gulch Project—acquisition.

(10) Item 3790-301-721(aa), Budget Act of 1982, Angel Island SP—working drawings and construct sewage treatment facilities.

(11) Item 3790-301-721(bb), Budget Act of 1982, Baldwin Hills Project—preliminary plans, working drawings, and construct Phase I development.

(12) Item 3790-301-721(dd), Budget Act of 1982, Columbia SHP—continuing restoration of Fallon Hotel and Theatre.

(13) Item 3790-301-721(ee), Budget Act of 1982, East Bay Shoreline—acquisition, planning, and development.

(14) Item 3790-301-721(gg), Budget Act of 1982, Monterey SHP—continuing restoration of Cooper-Molera Adobe.

(15) Item 3790-301-721(hh), Budget Act of 1982, Old Town San Diego SHP—working drawings and partial construction of Rose-Robinson building, schoolroom, Alvarado family property, Alvarado Lucia House, and parking.

(16) Item 3790-301-721(mm), Budget Act of 1982, McGrath SB—working drawings and construct Harbor Boulevard Bridge.

Item		Amount
(17)	Item 3790-301-721(oo), Budget Act of 1982, New Brighton SB—Porter Sesnon acquisition, provided that funds reappropriated in this item for acquisition of lands for addition to New Brighton State Beach (commonly known as the Porter-Sesnon properties) are available for expenditure for acquisition and for necessary acquisition costs, including appraisals, until June 30, 1988. The State Public Works Board may reduce the acreage to be acquired with the reappropriated funds if necessary to carry out the acquisition project.	
(18)	Item 3790-301-721(qq), Budget Act of 1982, Citrus Heritage Park, Mockingbird Canyon Project—acquisition and planning.	
(19)	Item 3790-301-721(rr), Budget Act of 1982, Pismo SB—Grand Avenue Entrance—rehabilitation, working drawings, and construction.	
(20)	Item 3790-301-721(tt), Budget Act of 1982, Big Sur Project—acquisition.	
(21)	Item 3790-301-721(uu), Budget Act of 1982, Fort Ross SHP—construct visitor center.	
(22)	Item 3790-301-721(aaa), Budget Act of 1982, Hearst San Simeon SHM—construct visitor center.	
(23)	Section 1, Chapter 1002, Statutes of 1982, Crystal Cove SP—working drawings for full park development, development and interpretation.	
(24)	Item 3790-301-721(t), Budget Act of 1982, as added by Section 2, Chapter 1560, Statutes of 1982, Candlestick SRA—construction.	
(25)	Item 3790-304-721(a), Budget Act of 1982, as added by Chapter 1540, Statutes of 1982, Emma Wood State Beach—development and restoration.	
(26)	Item 3790-301-721(a), Budget Act of 1983, Angel Island SP—restoration and construct day use facilities.	
(27)	Item 3790-301-721(e), Budget Act of 1983, Old Town San Diego SHP. Construct Rose-Robinson Building, Franklin/Colorado House, Alvarado family property, and Alvarado Lucia House.	
(28)	Item 3790-301-721(h), Budget Act of 1983, San Diego Coast SB—working drawings and construct day use parking and rehabilitation.	
(29)	Item 3790-301-721(r), Budget Act of 1983, Seccombe Lake SURA—acquisition and development.	
(30)	Item 3790-311-721(a), Budget Act of 1983, Seccombe Lake SURA—acquisition and development.	
(31)	Item 3790-301-721(o), Budget Act of 1981, Crystal Cove SB—preliminary plans, working drawings, and construction.	

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722—Parklands Fund of 1984

(1) Item 3790-301-722(3), Budget Act of 1984, Candlestick Point SRA—working drawings and construct day use, parking, and landscaping.

(2) Item 3790-301-722(6), Budget Act of 1984, Colonel Allensworth SHP—building reconstruction.

(3) Item 3790-301-722(9.7), Budget Act of 1984, Governor's Mansion—restoration and renovation.

(4) Item 3790-301-722(22), Budget Act of 1984, Preliminary Planning.

(4.5) Item 3790-301-722(25), Budget Act of 1984, Seccombe Lake SURA—Phase II development, provided that this shall be the final appropriation for the development of Seccombe Lake SURA.

(5) Item 3790-301-722(26a), Budget Act of 1984, Acquisition Costs.

(6) Item 3790-301-722(26b), Budget Act of 1984, Prebudget Appraisals.

(7) Item 3790-301-722(26c), Budget Act of 1984, Inholdings.

(8) Item 3790-301-722(26d), Budget Act of 1984, Opportunity Purchases.

(9) Item 3790-301-722(27.5), Budget Act of 1984, Little Frank's Tract—storm damage repair, provided that Proviso 4 of Item 3790-301-722 of the Budget Act of 1984 regarding the expenditure of funds for levee repairs at Little Frank's Tract is null and void.

728—Recreation and Fish and Wildlife Enhancement Fund:

(1) Item 3790-301-728(a), Budget Act of 1982, Lake Perris SRA—continuing recreation development—construction.

(2) Item 3790-301-728(c), Budget Act of 1983, Lake Del Valle SRA—development, working drawings, and construction.

(3) Item 3790-301-728(1), Budget Act of 1984, San Luis Reservoir SRA—Campground improvements.

732—State Beach, Park, Recreational, and Historic Facilities Fund of 1964:

(1) Item 403.1J(a), Budget Act of 1976 as added by Chapter 1379, Statutes of 1976, Delta Meadows —land acquisition.

(2) Item 573(b), Budget Act of 1980, Relocation Assistance.

733—State Beach, Park, Recreational, and Historical Facilities Bond Act of 1974:

(1) Item 503(d), Budget Act of 1978, Monterey SHP—Cooper-Molera restoration.

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(2) Item 3790-301-733(2), Budget Act of 1984, Mission Adobe—historical and archeological research.

(3) Item 3790-801-721(ss), Budget Act of 1982, as amended and reappropriated by Item 3790-490-721(q), Budget Act of 1984, and pursuant to Section 28 provisions. Item 3790-801-733(d), Fresno Agricultural Museum—development; provided that if sufficient funds are not available in the Parklands Fund of 1980, the balance of funds may be provided by other bond funds pursuant to Section 28 of this act. These funds shall be allocated and encumbered on a matching basis in incremental amounts, as determined by the Department of Parks and Recreation in order to accomplish the project, provided that up to $250,000 of these funds may be expended without a matching requirement for stabilization and clean-up as identified in the California Agricultural Museum Study, dated June 1984, prepared by the Department of Parks and Recreation.

742—State Urban and Coastal Park Fund:

(1) Item 443.2B(d), Budget Act of 1977, as added by Chapter 1109, Statutes of 1977, Garrapata Beach—acquisition.

(2) Item 508(d), Budget Act of 1979, Little Sur river—acquisition.

(3) Item 508(i), Budget Act of 1979, Santa Monica Mountains Zone—backbone trail, viewshed of Malibu Creek SP and Stunt Road zone.

(4) Item 507.5B(a), Budget Act of 1979, as added by Chapter 372, Statutes of 1980—acquisition of land, leases, and other interests in land; acquisition and development of recreation facilities at Lake Elsinore SRA.

(5) Item 585(b), Budget Act of 1980, Candlestick Point SRA—day use construction.

(6) Item 585(c), Budget Act of 1980, Castaic Lake SRA—working drawings and construction.

(7) Item 585(k), Budget Act of 1980, augmentation for land acquisition, condemnation proceedings for State, Urban, and Coastal Park Fund projects.

(8) Item 585(l), Budget Act of 1980, relocation assistance.

(9) Item 3790-301-742(b), Budget Act of 1981, Pyramid Reservoir—construction of camping and day-use facilities.

(10) Item 3790-301-742(c), Budget Act of 1982, as added by Section 8, Chapter 1617, Statutes of 1982, Big Sur Coast Area—acquisition (willing sellers only).

(11) Item 3790-301-742(d), Budget Act of 1982, as added by Section 8, Chapter 1617, Statutes of 1982, Sonoma Coast SP—acquisition (willing sellers only) and development.

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(12) Item 3790-301-742(e), Budget Act of 1982, as added by Section 8, Chapter 1617, Statutes of 1982, Santa Monica Mountains (Point Mugu State Park, Malibu Creek State Park, and Topanga State Park)—development.

(13) Item 3790-301-742(c), Budget Act of 1983, Millerton Lake SRA—working drawings and construction of day use facilities.

(14) Item 3790-301-742(2), Budget Act of 1984, McGrath SB—working drawings and construct campground additions.

(15) Item 3790-301-742(3), Budget Act of 1984, Santa Monica Mountains—day use and camping.

952—State Park Contingent Fund

(1) Item 3790-301-952(e), Budget Act of 1982, Reimbursements—Federal Land and Water Conservation Fund.

(2) Item 3790-301-952(f), Budget Act of 1982, Petrified Forest Project—acquisition.

3790-491—Reappropriation, Department of Parks and Recreation. Notwithstanding any other provisions of law, the unencumbered balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes (and subject to the limitations unless otherwise specified) provided for in such appropriations, shall be available for expenditures until June 30, 1986.

140—California Environmental License Plate Fund

(1) Item 3790-101-140(b), Budget Act of 1982, City of Berkeley-Casadero Music and Arts Center.

(2) Item 3790-101-140(c), Budget Act of 1982, City of Fontana-Jurupa Hills Regional Park Interpretive Center.

(3) Item 3790-101-140(d), Budget Act of 1982, County of San Mateo-Coyote Point Museum.

(4) Item 3790-101-140(e), Budget Act of 1982, City of Santa Cruz-Lighthouse Point Repair.

188—Energy and Resources Fund

(1) Item 532(h), Budget Act of 1980, George Miller, Jr./John T. Knox, Regional Shoreline Park-Land Acquisition.

190—Resources Account, Energy and Resources Fund

(1) Item 3790-101-190(a), Budget Act of 1982, Roberti-Z'berg Urban Open Space and Recreation Program.

(2) Item 3790-101-190(c), Budget Act of 1982, Urban Fishing Project, City of San Jose-Lake Cunningham.

(3) Item 3790-101-190(d), Budget Act of 1982, Presley Urban Fishing Program Act project, City of San Bernardino-Seccombe Lake.

263—Off-Highway Vehicle Fund

Item	Amount
(1) Item 228(g), Budget Act of 1977, County of Sacramento, Off-Road Vehicle Park Redevelopment Phase I.	
(2) Item 228(i), Budget Act of 1977, County of Los Angeles, Bowher Flats Off-Highway Vehicle Park Project Phase I.	
(3) Chapter 759, Statutes of 1979, County of Riverside, De Anza Motorcycle Park.	
(4) Item 235.1(a), Budget Act of 1979, County of Alpine, Hope Valley Snowmobile Parking Development.	
(5) Item 235.1(b), Budget Act of 1979, County of Alpine, Hope Valley Snowmobile Parking/ Snow Removal.	
(6) Item 235.2(a), Budget Act of 1979, U.S. Forest Service, Los Padres National Forest OHV Facilities.	
(7) Item 235.2(d), Budget Act of 1979, Bureau of Land Management, Riverside District OHV Facilities.	
(8) Item 260.1(b), Budget Act of 1980, County of Sacramento, Prairie City.	
(9) Item 260.1(d), Budget Act of 1980, County of San Bernardino, Glen Helen Off-Highway Vehicle Park.	
(10) Item 260.1(f), Budget Act of 1980, County of Stanislaus, Frank Raines Off-Highway Vehicle Park.	
(11) Item 260.1(i), Budget Act of 1980, U.S. Forest Service, Lake Tahoe Basin Management Unit, OHV Facilities.	
(12) Item 260.1(j), Budget Act of 1980, U.S. Forest Service, Inyo National Forest OHV Facilities.	
(13) Item 260.1(k), Budget Act of 1980, U.S. Forest Service, Eldorado National Forest OHV Facilities.	
(14) Item 260.1(m), Budget Act of 1980, U.S. Forest Service, Cleveland National Forest OHV Facilities.	
(15) Item 260.1(n), Budget Act of 1980, U.S. Forest Service, Mendocino National Forest OHV Facilities.	
(16) Item 260.1(o), Budget Act of 1980, Bureau of Land Management, Folsom District OHV Facilities.	
(17) Item 260.1(g), Budget Act of 1980, Bureau of Land Management, Ukiah District OHV Facilities.	
(18) Item 260.1(r), Budget Act of 1980, Bureau of Land Management, Riverside District OHV Facilities.	
(19) Item 379-101-263(c), Budget Act of 1981, City of Porterville, Porterville Regional OHV Park.	
(20) Item 379-101-263(e), Budget Act of 1981, County of Santa Clara, Motorcycle Park.	

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(21) Item 379-101-263(h), Budget Act of 1981, U.S. Forest Service, Los Padres National Forest.

(22) Item 3790-101-263(f), Budget Act of 1982, County of Sierra, Sierra County Snowmobile Park.

(23) Item 3790-101-263(g), Budget Act of 1982, County of Sonoma, Sears Point Cycle Park.

721—Parklands Fund of 1980:

(1) Item 379-101-721(c)(82), Budget Act of 1981, City of Firebaugh, Dunkle Park.

(2) Item 379-101-721(c)(101), Budget Act of 1981, County of Glenn, Sacramento River Recreation Area.

(3) Item 379-101-721(c)(179), Budget Act of 1981, County of Los Angeles, Malibu Local Park.

(4) Item 379-101-721(c)(217.6), Budget Act of 1981, Anderson Valley CSD, Recreation Facilities.

(5) Item 379-101-721(c)(219), Budget Act of 1981, City of Dos Palos, Dos Palos Park.

(6) Item 379-010-721(c)(226), Budget Act of 1981, City of Greenfield, Greenfield Parkland.

(7) Item 379-101-721(c)(455), Budget Act of 1981, County of Shasta, BMX Bicycle Track.

(8) Item 379-101-721(c)(483), Budget Act of 1981, Weaverville-Douglas City Recreation District, Lee Fong Park.

(9) Item 3790-101-721(b)(68), Budget Act of 1982, City of Soledad, Soledad City Parks.

(10) Item 3790-101-721(b)(104), Budget Act of 1982, City of Escalon, Escalon Community Park.

(11) Item 3790-101-721(b)(129), Budget Act of 1982, Shasta Community Services District, Shasta Community Park.

732—State Beach, Park, Recreational and Historical Facilities Fund of 1964

(1) Item 3790-102-732(1), Budget Act of 1982 as amended by Chapter 841, Statutes of 1982, East Bay Regional Park District, East Bay Trails Project—Acquisition and development of riding and hiking trails.

3790-496—Reversion, Department of Parks and Recreation. As of June 30, 1985, the unencumbered balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the fund from which the appropriation was made.

721—Parklands Fund of 1980

(1) Item 379-101-721(c)(109), Budget Act of 1981, Bear Mountain Recreation and Park District, Smothermon Park

(2) Item 379-101-721(c)(235), Budget Act of 1981, City of Salinas, Northgate Neighborhood Park

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(3) Item 379-101-721(c) (274), Budget Act of 1981, City of Orange—El Modena Park		
(4) Item 379-101-721(c) (499), Budget Act of 1981, City of Port Hueneme, Port Hueneme Recreation Center		
(5) Item 3790-101-721(b) (39), Budget Act of 1982, City of Arcadia—Eisenhower and Bonita Parks		
(6) Item 3790-101-721(b) (66), Budget Act of 1982, City of King, City/County Regional Park		
(7) Item 3790-101-721(b) (78), Budget Act of 1982, County of Plumas, Crescent Mills Community Park		
(8) Item 3790-101-721(b) (30), Budget Act of 1983, City of South El Monte, Potrero Park		
(9) Item 3790-101-721(b) (73), Budget Act of 1983, County of Sonoma, Healdsburg Beach		
(10) Item 3790-101-721(b) (75), Budget Act of 1983, County of Sonoma—Southwest Community Park		
742—State, Urban and Coastal Park Fund		
(1) Item 590(38), Budget Act of 1980, County of Riverside, Lake Tamarisk		
(2) Item 379-101-742 (1.2), Budget Act of 1981, City of Oakland, Grove Center		
(3) Item 379-101-742 (1.3), Budget Act of 1981, City of Oakland, Elmhurst Site		
3810-001-001—For support of Santa Monica Mountains Conservancy		306,000
Schedule:		
(a) 100000-Personal Services	356,000	
(b) 300000-Operating Expenses and Equipment	201,000	
(c) Reimbursements	−40,000	
(d) Amount payable from the Santa Monica Mountains Conservancy Fund (Item 3810-001-941)	−211,000	
3810-001-941—For support of the Santa Monica Mountains Conservancy, for transfer to Item 3810-001-001, payable from the Santa Monica Mountains Conservancy Fund		211,000
Provision:		
1. Notwithstanding any other provisions of law, up to $211,000 deposited in the Santa Monica Mountains Conservancy Fund from the sale of lots at Wilacre Estate may be transferred to schedule (d) of Item 3810-001-001 if otherwise required to fund the reimbursement required in that schedule. Funds subsequently deposited in the Santa Monica Mountains Conservancy Fund shall replace any of the Wilacre Estate proceeds which have been transferred to schedule (d) of Item 3810-001-001 pursuant to this provision.		
3810-301-036—For capital outlay and local assistance, Santa Monica Mountains Conservancy, payable from the Special Account for Capital Outlay		8,474,000

Item		Amount
Schedule:		
(1)	20.10.015—Appraisals, project planning and design	40,000
(2)	20.10.105—Cherry Canyon—Property options, acquisition	1,200,000
(3)	20.10.110—La Tuna Canyon—Property acqusition	1,250,000
(4)	20.10.115—Lower Zuma Canyon—Acquisition	5,984,000

Provisions:

1. The conservancy shall transfer necessary funds appropriated in category (2) to the City of La Canada-Flintridge for the purpose of acquiring the Cherry Canyon property, subject to Provision 2 of this item. The City of La Canada-Flintridge shall be responsible for the operation and maintenance of the Cherry Canyon property.
2. No funds appropriated in category (2) shall be expended unless and until local sources contribute a minimum of $500,000 toward the purchase price of the Cherry Canyon property.
3. The conservancy shall seek an operating agreement with the City of Los Angeles for the La Tuna Canyon property after the acquisition of that property.
4. Notwithstanding any other provision of law, if the National Park Service has not, within four years from date of acquisition, reimbursed the appraised market value of the property acquired in category (4), pursuant to Section 33204 of the Public Resources Code, the property shall be sold for fair market value by the Department of General Services, pursuant to Section 33205 of the Public Resources Code. Notwithstanding Section 11011 of the Government Code and Section 33205 of the Public Resources Code, the net proceeds from any property sold, or any reimbursement made, pursuant to this provision shall be deposited in the Special Account for Capital Outlay.
5. No funds may be encumbered for acquisition pursuant to category (4) unless the Executive Director of the Conservancy certifies to the State Public Works Board that adequate assurances have been received from the Department of the Interior that reimbursement will be made within the time specified in Provision 4.
6. No funds appropriated in this item shall be expended for grants unless and until both of the following conditions are met:
   (a) The conservancy adopts written procedures to prevent premature transfers of grant funds that would result in significant interest earnings being foregone by state funds. The procedures may provide for the conservancy to determine that a deferred

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transfer would jeopardize the purpose of a grant and that an early transfer is necessary. Where this determination is made, grant agreements shall provide that any interest earned shall be transferred to the General Fund on a quarterly basis, provided that the cumulative interest earnings to be transferred exceed $10,000. The transferred interest shall be specifically identified in the 1986–87 Governor's Budget.

(b) The Executive Director of the Conservancy certifies to the Controller that the conservancy has complied with the procedures and requirements in subdivision (a).

PARKLANDS ACQUISITION AND DEVELOPMENT PROGRAM OF 1984

3810-301-722—For Capital Outlay, Santa Monica Mountains Conservancy, payable from the Parklands Fund of 1984 6,950,000

Schedule:

(a) 20.10.010-Project Planning and Design 200,000

(b) 20.10.100-Capital Outlay and Grants 6,750,000

Provisions:

1. No funds appropriated in this item shall be expended for grants unless and until both of the following conditions are met:

(a) The conservancy shall adopt written procedures to prevent premature transfers of grant funds that would result in significant interest earnings being foregone by state funds. The procedures may provide for the conservancy to determine that a deferred transfer would jeopardize the purpose of a grant and that an early transfer is necessary. Where this determination is made, grant agreements shall provide that any interests earned shall be transferred to the General Fund on a quarterly basis, provided that the cumulative interest earnings to be transferred exceed $10,000. The transferred interest shall be specifically identified in the 1986–87 Governor's Budget.

(b) The Executive Director of the Conservancy shall certify to the Controller that the conservancy has complied with the procedures and requirements in subdivision (a).

3820-001-001—For support of San Francisco Bay Conservation and Development Commission 1,158,000

Schedule:

(a) 100000-Personal Services 982,000

(b) 300000-Operating Expenses and Equipment 362,000

(c) Reimbursements ..... −186,000

Item		Amount
3860-001-001—For support of Department of Water Resources		30,357,000
Schedule:		
(a) 10-Continuing Formulation of the California Water Plan	17,333,000	
(b) 20-Implementation of the State Water Resources Development System	386,000	
(c) 30-Public Safety and Prevention of Damage	15,744,000	
(d) 40-Services	4,548,000	
(e) 50.01-Management and Administration	28,057,000	
(f) 50.02-Distributed Management and Administration	−28,057,000	
(g) Reimbursements	−7,654,000	

Provisions:

1. The amounts appropriated in Items 3860-001-001 to 3860-001-940, inclusive, shall be transferred to the Water Resources Revolving Fund (691) for direct expenditure in such amounts as the Department of Finance may authorize, including cooperative work with other agencies. The money so transferred shall be placed in a special account in that fund and shall not be available for expenditure after June 30, 1986. Any unencumbered balances shall be returned to the appropriate funds as of June 30, 1986. Expenditures for technical services and general management charged to programs from all support appropriations for the Department of Water Resources in this act shall not exceed $24,727,000 and $10,766,000, respectively, without prior approval of the Department of Finance.
2. Of the amount appropriated in this item, $1,500,000 shall be to establish, pursuant to an interagency agreement with an appropriate state educational institution, a comprehensive service laboratory for analysis of water, soil, and air systems associated with agriculture in order to implement AB 791 of the 1985–86 Regular Session. $2,500,000 shall be for a study to operate, under controlled conditions, a water delivery system in the Grassland Water District in order to minimize the impacts on water quality in the San Joaquin River and on groundwater supplies and the habitat in the district. $450,000 shall be to purchase water from the federal Central Valley Project to provide water as part of a study to improve water quality in the San Joaquin River.

Item		Amount
3. Expenditure of funds appropriated in this item for a water delivery system in the Grassland Water District is contingent upon the following conditions being met:		
(a) An agreement is signed by the Secretary of the Resources Agency and local interests, within 180 days of the effective date of this act, which establishes an equitable sharing of costs for the construction and operation of any proposed facilities.		
(b) The operation of any proposed facilities shall not adversely impact the beneficial uses of the San Joaquin River. Grassland Water District and those entities draining through the district shall develop and implement a phased program to reduce selenium concentrations and loads in water entering the San Joaquin River from the district. The program shall be modified, as necessary, to conform to future water quality objectives adopted by the regional board.		
(c) The state board exercises its jurisdiction, if necessary, to place conditions in water rights permits which appropriate water for delivery to Grassland Water District.		
3860-001-140—For support of Department of Water Resources, payable from the California Environmental License Plate Fund		400,000
Provisions:		
1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.		
3860-001-144—For support of the Department of Water Resources, payable from the California Water Fund		2,457,000
3860-001-890—For support of Department of Water Resources, payable from the Federal Trust Fund		784,000
Provisions:		
1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.		
3860-001-940—For support of Department of Water Resources, payable from the Renewable Resources Investment Fund		453,000
Provisions:		
1. Provision 1 of Item 3860-001-001 shall also be applicable to this item.		
3860-101-001—For local assistance, Department of Water Resources, Program 30—Public Safety and Prevention of Damage		19,800,000
Schedule:		
(a) Flood Control Subventions	17,800,000	
(b) Delta Levee Subventions	2,000,000	

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Provisions:

1. The funds appropriated in category (a) of this item shall be available for partial payment (90 percent of the amount recommended by the Department of Water Resources) of claims for reimbursement following a completed engineering review by the Department of Water Resources. The remaining portion of the claims shall be paid after an audit has been completed by the Controller's office. Funds available in this item shall be available in the final quarter of the fiscal year for payment of advance claims only after the necessary funds are first committed to paying reimbursement claims that will be ready for payment in 1985–86. No expenditures shall be made until the local organizations give assurances that they will maintain and operate the projects after completion in a manner which will accomplish the purposes for which the projects were authorized and constructed and as may be required by the federal agencies concerned and the Department of Water Resources, and that the local organizations will hold and save the State of California free from damages or claims due to the construction, installation, or operation and maintenance of the project.
2. The funds appropriated in category (a) of this item are for expenditure by the Department of Water Resources, in accordance with Chapters 1 (commencing with Section 12570), 2 (commencing with Section 12639), 3 (commencing with Section 12800), 3.5 (commencing with Section 12840), and 4 (commencing with Section 12850) of Part 6 of Division 6 of the Water Code, for payment of, and for reimbursement for necessary advances made for, the cost of cooperation by the state for major flood control projects adopted by the Legislature, for small flood control projects approved under Section 12750 of the Water Code, and for watershed protection and flood prevention projects as authorized pursuant to Chapter 4 (commencing with Section 12850) of Part 6 of Division 6 of the Water Code, and administrative costs.
3. No costs incurred for maintenance or improvement shall be reimbursed from the appropriation in category (b) of this item if the entire cost incurred per mile of levee is $1,000 or less. Up to 50 percent of any costs incurred in excess of $1,000 per mile shall be reimbursed. No funds appropriated by this item shall be expended for the purposes of the item unless a nonstate entity provides hold harmless assurances to the State of California for the work which would be done with such funds.

3860-101-140—For local assistance, Department of Water Resources, Monterey Peninsula Water Management District 100,000

Item		Amount
Provision:		
1. No funds shall be encumbered for the Monterey Water Hyacinth Project unless and until the Director of Water Resources has certified to the Director of Finance and the Legislature that the project's economic analysis has been completed and demonstrates that, if the pilot project is successful, the technology will be cost effective.		
3860-301-036—For Capital Outlay, Department of Water Resources, payable from the Special Account for Capital Outlay		5,942,000
Schedule:		
(1) Minor Projects		
(b) 30.90.015—Flood Center-Computer Room Remodeling	90,000	
(c) 30.90.020—Sacramento Maintenance Yard-Day Room	50,000	
(d) 30.90.025—Sutter Maintenance Yard-Grading and Paving	91,000	
(2) 30.95.010—Sacramento-San Joaquin River Bank Protection Program	2,000,000	
(3) 30.95.030—Merced Stream Channel Improvement	1,650,000	
(4) 30.95.035—Sacramento River-Chico Landing to Red Bluff	1,030,000	
(5) 30.95.040—Sutter Bypass-Weir No. 2 Replacement—Preliminary plans and working drawings	100,000	
(6) 30.95.060—Knights Landing Outfall Gates	171,000	
(8) 30.95.025—Sacramento-San Joaquin River Riparian Habitat	500,000	
(9) 30.95.055—Mariposa Bypass Control Structure	260,000	
Provisions:		
1. The amount appropriated in category (2) of this item is for acquisition of land, easements and rights-of-way, including but not limited to, borrow pit, spoil areas and easements for levees, clearing, flood control works and flowage, and for appraisals, surveys, and engineering studies necessary for the completion or operation of the projects in the Sacramento and San Joaquin watersheds as authorized by Section 8617.1 and Chapters 1 (commencing with Section 12570), 2 (commencing with Section 12639), 3 (commencing with Section 12800), 3.5 (commencing with Section 12840), and 4 (commencing with Section 12850) of Part 6 of Division 6 of the Water Code; and for advances to the federal government or payments to the federal government or others for incidental construction or reconstruction items which are an obligation of the state in connection with the		

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completion or operation of the following projects and for materials and necessary construction, reconstruction, relocation, or alterations to highways, railroads, bridges, powerlines, communication lines, pipelines, irrigation works and other structures and facilities and for appraisals, surveys, and engineering studies incidental thereto.

2. The funds appropriated in categories (1) and (5) of this item include funding for preliminary plans, working drawings, construction supervision, and contract administration to be performed by Department of Water Resources personnel in completion of the project.
3. Notwithstanding the provisions of Section 2.00, the amounts appropriated in this item shall be available for expenditure only during the 1985–86 fiscal year.
4. Any assurance agreement signed by the Reclamation Board and the United States Army Corps of Engineers for snagging and clearing work on the San Joaquin River shall include a plan for financing all of the required mitigation, including the objective of net long-term enhancement, as provided in Chapter 1530 of the Statutes of 1984. This financing plan shall establish whether federal, state, and/or local funds and resources shall be used to pay for each cost associated with providing the required mitigation, as set forth above, the amount that each source will be responsible for providing, and a schedule establishing when these funds and resources are to be made available.

   The assurance agreement shall also provide that the required mitigation work, where possible, shall proceed concurrently with the project implementation. The Director of the Department of Water Resources shall certify the adequacy of this financing plan. The certified financing plan shall be transmitted to the Legislature at least 30 days prior to any assurance agreement being signed.

   The Department of Fish and Game shall monitor and report to the Legislature on the implementation and effectiveness of the mitigation plan.
5. (1) Any assurance agreement entered into between the Secretary of the Army and the Reclamation Board for the Chico Landing to Red Bluff Project shall provide for full mitigation of the impacts of the project on riparian habitat, wildlife, and fisheries. (2) Prior to entering into the above assurance agreement, the Reclamation Board shall enter into an agreement with the Department of Fish and Game that will provide for full mitigation of the impacts of the project on riparian habitat, wildlife, and fisher-

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ies. This agreement shall, at a minimum, provide for the approval of the Department of Fish and Game of the mitigation plan's design, implementation, and effectiveness. (3) The above assurance agreement shall also provide for implementation and funding of the measures specified in the agreement between the Department of Fish and Game and the Reclamation Board.

6. The Department of Water Resources shall provide, at the time of the release of the final Environmental Impact Report for the Chico Landing to Red Bluff Project, a detailed plan for funding the suggested mitigation measures contained in the EIR.

3860-490—Reappropriation, Department of Water Resources. Notwithstanding any other provision of law, up to $850,000 of the unencumbered balance of the appropriation provided in the following citation is hereby reappropriated for the purposes provided for in that appropriation, and shall be available for expenditure until June 30, 1986:

036—Special Account for Capital Outlay

(a) Item 3860-301-036 (3), Budget Act of 1984, 30.95.015 Fairfield Stream Group Project

3940-001-001—For support of State Water Resources Control Board		36,833,000
Schedule:		
(a) 10-Water Quality	52,012,000	
(b) 20-Water Rights	6,330,000	
(c) 30.01-Administration	5,457,000	
(d) 30.02-Distributed Administration	−5,457,000	
(e) Reimbursements	−2,883,000	
(f) Amount payable from the Hazardous Waste Control Account, General Fund (Item 3940-001-014)	−424,000	
(ff) Amount payable from the Environmental License Plate Fund (Item 3940-001-140)	−500,000	
(g) Amount payable from the Underground Storage Tank Fund (Item 3940-001-475)	−1,086,000	
(h) Amount payable from the Underground Container Inventory Account, General Fund (Item 3940-001-476)	−142,000	
(i) Amount payable from the Surface Impoundment Assessment Account, General Fund (Item 3940-001-482)	−2,729,000	
(j) Amount payable from the 1984 State Clean Water Bond Fund (Item 3940-001-740)	−384,000	

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(k) Amount payable from the Federal Trust Fund (Item 3940-001-890) ..—13,208,000

(*l*) Amount payable from General Fund (Item 3940-011-001) ..... —153,000

Provisions:

1. $14,054,000 of the amount appropriated for category (a) Water Quality shall be used to add staff and for associated resources according to the following schedule:

(a) Underground tanks cleanup oversight (167 personnel-years) 7,600,000

(b) Selenium studies (9.3 personnel-years) 2,399,000

(c) Investigation and enforcement related to contaminated drinking water wells (18.0 personnel-years) 1,000,000

(d) Update waste discharge orders (17.0 personnel-years) 765,000

(e) Enforcement (6.0 personnel-years) 300,000

(f) Toxic Pits regulation (19.8 personnel-years) 834,000

(g) Pilot computerized tracking system (1.0 personnel-year) 106,000

(h) Abandoned wells (1.9 personnel-years) 100,000

(i) Public participation (3.8 personnel-years) 200,000

(j) Russian River monitoring (1.0 personnel-year) 250,000

(k) New River monitoring 500,000

2. Of the amount appropriated for category (a) Water Quality for selenium and trace element studies, $2,399,000 shall be for a statewide survey of 12 elements, including selenium, to determine their effects on the environment and the public health, to specify necessary protective actions, and to expand laboratory capacity to meet ongoing needs. Of the $2,399,000, $700,000 shall be used to study the San Francisco Bay.

3. $100,000 of the amount appropriated for category (a) Water Quality to the San Francisco Bay Area Water Quality Control Board for a public participation program shall be reduced by any federal funds received by that regional board for the same purpose.

4. Of the amount appropriated by this item, 35 personnel-years and $1,750,000 shall be allocated to the San Francisco Bay Area Regional Water Quality Control Board and 25 personnel-years and $1,250,000 shall be allocated to the Los Angeles Regional Water Quality Control Board for work related to leaking underground tanks. At least 10 personnel-years allocated to the Los Angeles Regional Water Quality Control Board

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shall be assigned to activities in the San Gabriel Valley. Any allocation that is different from that described by this provision shall require prior notification to the Legislature.	
3940-001-014—For support of State Water Resources Control Board, for transfer to Item 3940-001-001, payable from the Hazardous Waste Control Account, General Fund	424,000
3940-001-140—For support of State Water Resources Control Board, for transfer to Item 3940-001-001, payable from the Environmental License Plate Fund	500,000
3940-001-475—For support of State Water Resources Control Board, for transfer to Item 3940-001-001, payable from the Underground Storage Tank Fund	1,086,000
Provisions: 1. Pursuant to subdivision (b) of Section 25283.3 of the Health and Safety Code, the Legislature hereby determines that the surcharge to be included in the fee paid to a local agency by each person who submits an application for a permit to operate an underground storage tank shall be $56 per tank, during the 1985–86 fiscal year. This surcharge shall be transmitted to the State Water Resources Control Board and deposited in this Underground Storage Tank Fund.	
3940-001-476—For support of State Water Resources Control Board, for transfer to Item 3940-001-001, payable from the Underground Container Inventory Account, General Fund	142,000
3940-001-482—For support of State Water Resources Control Board, for transfer to Item 3940-001-001, payable from the Surface Impoundment Assessment Account, General Fund	2,729,000
3940-001-740—For support of State Water Resources Control Board, for transfer to Item 3940-001-001, payable from the 1984 State Clean Water Bond Fund	384,000
3940-001-890—For support of State Water Resources Control Board, for transfer to Item 3940-001-001, payable from the Federal Trust Fund	13,208,000
3940-011-001—For support of State Water Resources Control Board, for staff for the Lahontan Regional Water Quality Control Board for activities related to water quality in the Lake Tahoe Basin, for transfer to Item 3940-001-001, payable from the General Fund	153,000
Provisions: 1. The board may use up to $80,000 of the funds appropriated in this item to contract with the Tahoe Regional Planning Agency (TRPA) for 2.2 personnel-years of staff for permit review and permit compliance activities that are related to water quality in the Lake Tahoe Basin. These funds shall not be used to contract with TRPA for other enforcement activities. If the	

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board proposes to contract, then it shall provide to the Chairperson of the Joint Legislative Budget Committee, prior to final approval, a copy of the proposed contract with a description of the specific permit, inspection, enforcement-related, and other activities proposed for delegation to the TRPA.		
2. The State Water Resources Control Board shall use not less than $73,000 of these funds to reinstate 2.0 personnel-years for enforcement and other activities in the Lake Tahoe Basin provided by Lahontan Regional Water Quality Control Board.		
3940-101-144—For local assistance, State Water Resources Control Board, payable from the California Water Fund		7,500,000
3940-101-890—For local assistance, State Water Resources Control Board, payable from the Federal Trust Fund		182,000
HEALTH AND WELFARE		
4100-001-890—For support of the State Council on Developmental Disabilities, payable from the Federal Trust Fund		3,895,000
Schedule:		
(a) 10-State Council Operations	836,000	
(b) 20-Community Program Development	1,025,000	
(c) 30-Allocation to Area Boards	2,034,000	
Provisions:		
1. In the event federal funds are available to the state council in excess of the amounts appropriated in this item, the additional funds shall be used only for the following purposes, unless the funds are specifically designated by federal law for other purposes.		
(a) To augment the allocation to the Program Development Fund.		
(b) To fund the costs of salary and benefit increases approved by the Legislature that exceed the Budget Act appropriation.		
4110-001-001—For support of Area Boards on Developmental Disabilities		0
Schedule:		
(a) 10-Area Board Services	2,034,000	
(b) Reimbursements	−2,034,000	
4120-001-001—For support of Emergency Medical Services Authority		694,000
Schedule:		
(a) 10-Emergency Medical Services Authority	858,000	
(b) Amount payable from the Federal Trust Fund (Item 4120-001-890)	−164,000	

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Provisions:		
1. The Emergency Medical Services (EMS) Authority shall use the following guidelines in administering state-funded grants to local agencies: (a) funding eligibility shall be limited to rural multicounty regions that demonstrate a heavy use of the EMS system by nonresidents, (b) local agencies shall provide matching funds of at least $1 for each dollar of state funds received, (c) state funding shall be used to provide only essential minimum services necessary to operate the system, as defined by the authority, (d) no region shall receive both federal and state funds in the same fiscal year for the same purpose, and (e) the authority shall use a competitive process to award the funds and shall monitor the use of the funds by recipients to assure that these funds are used in an appropriate manner.		
4120-001-890—For support of Emergency Medical Services Authority, for transfer to Item 4120-001-001, payable from the Federal Trust Fund		164,000
4120-101-001—For local assistance, Emergency Medical Services Authority, Program 10, grants to local agencies		783,840
4120-101-890—For local assistance, Emergency Medical Services Authority Program 10, payable from the Federal Trust Fund		1,685,000
4130-001-632—For support of the Health and Welfare Agency Data Center, payable from the Health and Welfare Agency Data Center Revolving Fund		33,967,000
Provisions:		
1. Notwithstanding any other provision of law, the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item, no sooner than 30 days after notification in writing to the chairperson of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or no sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.		
2. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated pursuant to Section 11755 of the Government Code.		
4140-001-001—For support of Office of Statewide Health Planning and Development		1,146,000
Schedule:		
(a) 100000-Personal Services	8,742,539	
(b) 300000-Operating Expenses and Equipment	8,848,744	
(d) Reimbursements	−5,199,283	
(e) Amount payable from the Hospital Building Account, Architecture Public Building Fund, (Item 4140-001-121)	−9,163,000	

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(f)	Amount payable from the Federal Trust Fund (Item 4140-001-890) ..	−1,441,000
(g)	Amount payable from the Health Facilities Construction Loan Insurance Fund (Health and Safety Code Section 436.26)	−642,000

Provisions:

1. The Office of Statewide Health Planning and Development shall report to the Legislature by August 1, 1985, on its proposed system of disclosure pursuant to Chapter 1326, Statutes of 1984. The report shall demonstrate that the office's proposed system is equivalent to the reporting and disclosure requirements of the California Health Facilities Disclosure Act as it existed on December 31, 1984. Such demonstration shall, at a minimum, include the following:
   (a) Detailed information about the office's proposed system for making individual health facility data available to the public in a manner equivalent to the system currently operated by the California Health Facilities Commission. This shall include information about the specific methods by which members of the public may request data from the office on the Health Services Agencies (HSA), and about the procedures for filling such requests.
   (b) Detailed information about the individual and aggregate health facility data documents, reports, and publications which will be available to the public from the office and from the HSA, the prices that will be charged for those items, a comparison of the office's specific proposals and the system currently operated by the California Health Facilities Commission, and an analysis of the effect of the proposed system on public access to health facility data.
   (c) Detailed information about the public liaison function required of the office by Chapter 1326, Statutes of 1984, including the following:
      (1) Definition of the activities to be performed in this function, including definition of how technical assistance on the uses and applications of health facility data will be provided; educational programs and materials to be produced to inform the public about health care costs and opportunities to use health care resources more cost effectively; and provisions for assessing and meeting changing needs of data users.
      (2) Definition of the role, if any, that the HSA will play in this function; arrangements for those areas of the state which have no HSA; and an assessment of the

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capabilities of the HSA (in terms of staff, data processing systems, and financial recources) to effectively fill this role.	
(3) Workload projections for these activities; proposed staffing levels to accomodate this workload; and the planned organizational structure of the staff dedicated to this function in the office.	
(d) Detailed information about the resources and proposed organizational structure for conducting policy analysis and research activities required to meet the information needs of the Legislature, the administration, and others to evaluate health system policy options and assess their impacts.	
4140-001-121—For support of Office of Statewide Health Planning and Development, for transfer to Item 4140-001-001, payable from the Hospital Building Account, Architecture Public Building Fund (Health and Safety Code Section 15047)	9,163,000
4140-001-890—For support of Office of Statewide Health Planning and Development, for transfer to Item 4140-001-001, payable from the Federal Trust Fund	1,441,000
4140-101-001—For local assistance, Office of Statewide Health Planning and Development for Health Professions Development (Family Physician Training)	3,000,000
Provisions:	
1. Notwithstanding the provisions of Section 2 of this act, or any other provision of law the funds appropriated in this item for contracts with: accredited medical schools, programs which train primary care physician's assistants, hospitals or other health care delivery systems located in California, which meet the standards of the Health Manpower Policy Commission established pursuant to Chapter 1 (commencing with Section 69270) of Part 42 of Division 5 of Title 3 of the Education Code, shall continue to be available for fiscal years 1986–87, 1987–88, and 1988–89. The amount appropriated by this item shall only be used for such contracts which commence on or after July 1, 1985.	
4170-001-001—For support of Department of Aging	13,592,000
Schedule:	
(a) 10-Nutrition	2,449,000
(b) 20-Senior Community Employment Service	337,000
(c) 30-Supportive Services and Centers	1,428,000
(d) 40-Special Projects	22,114,000
(e) 50.01-Administration	4,160,000
(f) 50.02-Distributed Administration ..	−4,229,000
(g) Reimbursements	−10,250,000

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(h)	Amount payable from the Federal Trust Fund (Item 4170-001-890) ..	−2,258,000
(i)	Amount payable from Chapter 1626, Statutes of 1984	−159,000

Provisions:

1. The Director of the Department of Finance may authorize the transfer of funds between this item and Item 4170-101-001 no sooner than 30 days after written notification to the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee may determine of: (1) the amount of the proposed transfer; (2) an identification of the purposes for which the funds will be used; (3) documentation that the proposed activities must be carried out in the current year and that no other funds are available for their support; and (4) the impact of any transfer on the level of services.
2. The Department of Aging shall expand the Multi-Purpose Senior Services Program (MSSP) to four additional sites which shall serve major, well-populated, well-defined geographic areas which are currently not being served by existing MSSP projects and which demonstrate a need for services.

   Priority shall be given to areas which have (1) a low-income senior citizens and (2) a higher than state average proportion of minority representation.
3. The department shall conduct a study to assess the impact of the condition and limitation on transfers, and the delivery of social services to seniors within this state.

   The study shall encompass the following two major components:

   (a) Assessment of the impact of the transfer language on both nutrition and social services within individual Planning and Service Areas and on a statewide basis; and
   (b) Assessment of current uses of Title III-B funds and recommendations as to priority uses of social service funds which will complement the policy directions already established within California; and assessment of any level of unmet needs for Title III-B services.

   The department shall provide this report to the Secretary of the Health and Welfare Agency and the Legislature by February 1, 1986.
4. The department shall expend up to $100,000 of the funds appropriated in this item for consulting services for development of a Long-Term Care Division Management Information System.

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4170-001-890—For support of Department of Aging, for transfer to Item 4170-001-001, payable from the Federal Trust Fund			2,258,000

Provisions:

1. The Director of the Department of Finance may authorize the transfer of funds between this item and Item 4170-101-890 no sooner than 30 days after written notification to the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee may determine of: (1) the amount of the proposed transfer; (2) an identification of the purposes for which the funds will be used; (3) documentation that the proposed activities must be carried out in the current year and that no other funds are available for their support; and (4) the impact of any transfer on the level of services.

4170-101-001—For local assistance, Department of Aging			22,327,000
Schedule:			
(a) 10-Nutrition		61,239,000	
(1) 10.10-Congregate nutrition	46,209,000		
(2) 10.20-Home delivered nutrition	15,030,000		
(b) 20-Senior Community Employment Service		4,965,000	
(c) 30-Supportive Services and Centers (for match)		27,046,000	
(d) 40-Special Projects		5,824,000	
(e) Amount payable from the Federal Trust Fund (Item 4170-101-890)		−76,747,000	

Provisions:

1. Provision 1 of Item 4170-001-001 is also applicable to this item.
2. No more than 5 percent of the funds received under Title III-(C) (1) of the Older Americans Act, by either the Department of Aging or by individual Area Agencies on Aging, shall be transferred to provide for services under other titles of the Older Americans Act or for other uses, until the following conditions, within each Planning and Service Area, have been satisfied:
   (1) Full implementation of the priorities specified in subdivisions (b) and (c) of Section 4 of Chapter 616, Statutes of 1984, which addresses the issues of reducing the number of elderly persons who are currently on waiting lists, and increasing the number of days per week that meals are provided under the home-delivered meals program from 5 to 7.
   (2) Ethnic minority participation within the congregate meal program is equal to at least

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5 percent, and ethic minority participation within the home-delivered meal program is equal to at least 5 percent of the number of ethnic minority persons aged 60 years and older residing within each Planning and Service Area, based on the current United States Census Bureau reports.

Transfers between Title III-C (1) and III-(C) (2) may be made to the extent permitted by federal law; transfers from Title III-C (2) to Title III-B are prohibited. Transfers between state congregate and home-delivered meals program funds shall be unrestricted to allow for maximum flexibility in meeting local nutrition needs.

3. (a) Applicants not selected, and who appealed the director's decisions on the initial 10 sites, shall have the right to appeal the director's decision to the Department of General Services. If the department finds in favor of an applicant, the department shall fund that project from funds appropriated in this item.

(b) If funds are available after the appeal process is completed, the department shall establish, by January 1, additional linkages sites for a maximum of 15 linkages sites around the state. These sites shall be selected from either the list submitted to the director by the Long Term Care Committee or from the top 10 projects ranked by the department staff.

In making these selections the director shall give priority to projects that (a) provide a balanced geographic and demographic distribution of the 15 linkages sites, and (b) serve a large population of minority and poor elderly in their community.

Sites not selected shall be able to appeal the director's decision to the Department of General Services.

4170-101-890—For local assistance, Department of Aging, for transfer to Item 4170-101-001, payable from the Federal Trust Fund 76,747,000

Provisions:

1. Provision 1 of Item 4170-001-890 is also applicable to this item.

4180-001-001—For support of Commission on Aging 252,000

Schedule:

(a) 10-Commission on Aging	445,000
(b) Amount payable from the Federal Trust Fund (Item 4180-001-890) ..	—193,000

Item		Amount
Provisions:		
1. The amount appropriated in this item for the California Senior Legislature shall be reduced by one-half of the total amount of any private contributions made to the commission for the California Senior Legislature which are in excess of $33,000.		
4180-001-890—For support of Commission on Aging, for transfer to Item 4180-001-001, payable from the Federal Trust Fund		193,000
Provisions:		
1. The amount appropriated in this item shall not be reduced as a result of the reduction of funds for support of the Department of Aging, Item 4170-001-890, made pursuant to the provisions of Section 1321.195 of Title 45 of the Code of Federal Regulations.		
4200-001-001—For support of Department of Alcohol and Drug Programs		6,900,000
Schedule:		
(a) 10-Alcohol Program	4,716,000	
(b) 20-Drug Program	5,697,000	
(c) 30.01-State administration	4,349,000	
(d) 30.02-State administration—distributed	−4,340,000	
(e) Reimbursements	−333,000	
(f) Payable from the Federal Trust Fund (Item 4200-001-890)	−2,827,000	
(g) Payable from Drinking Driver Program Licensing Trust Fund (Item 4200-001-139)	−157,000	
(h) Payable from Methadone Program Licensing Trust Fund (Item 4200-001-243)	−205,000	
Provisions:		
1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this appropriation and Item 4200-101-001.		
4200-001-139—For support of the Department of Alcohol and Drug Programs, for transfer to Item 4200-001-001, payable from the Drinking Driver Program Licensing Trust Fund		157,000
4200-001-243—For support of the Department of Alcohol and Drug Programs, for transfer to Item 4200-001-001, payable from the Methadone Program Licensing Trust Fund		205,000
4200-001-890—For support of Department of Alcohol and Drug Programs, for transfer to Item 4200-001-001, payable from the Federal Trust Fund		2,827,000
Provisions:		
1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this appropriation and Item 4200-101-890.		

Item		Amount
4200-101-001—For local assistance, Department of Alcohol and Drug Programs		82,732,000
Schedule:		
(a) 10-Alcohol Program	54,765,000	
(b) 20-Drug Program	62,378,000	
(c) Reimbursements	−2,750,000	
(d) Amount payable from the Federal Trust Fund (Item 4200-101-890)	−31,661,000	

Provisions:

1. Provision 1 of Item 4200-001-001 is also applicable to this item.
2. The Department of Finance may authorize the transfer of the local assistance state general fund appropriation between the alcohol program and the drug program for the purpose of meeting the intent of Sections 11814(b) and 11983.5(b) of the Health and Safety Code.
3. $5,478,000 of the amount scheduled in Item 4200-101-001 shall be allocated to those county alcohol programs with state and federal per capita allocations less than the statewide average, so that no county's per capita allocation is less than $1.74.
4. $5,532,000 of the amount scheduled in Item 4200-101-001 shall be allocated to those county drug programs with state and federal per capita allocations less than the statewide average, so that no county's per capita allocation, based on the Touche-Ross 50-30-10-10 formula is less than $1.94. The department shall also make additional allocations, to assure that no county's per capital allocation is less than $1.94.

4200-101-890—For local assistance, Department of Alcohol and Drug Programs, for transfer to Item 4200-101-001, payable from the Federal Trust Fund		31,661,000

Provisions:

1. Provision 1 of Item 4200-001-890 is also applicable to this item.
2. The Department of Finance may authorize the transfer of the local assistance federal block grant fund appropriation between the alcohol program and the drug program for the purpose of meeting the intent of Sections 11814(b) and 11983.5(b) of the Health and Safety Code.
3. $502,000 of the amount scheduled in Item 4200-101-890 shall be allocated to those county alcohol programs with state and federal per capita allocations less than the statewide average, so that no county's per capita allocation is less than $1.74.

Item		Amount
4. $372,000 of the amount scheduled in Item 4200-101-890 shall be allocated to those county drug programs with state and federal per capita allocations less than the statewide average, so that no county's per capita allocation, based on the Touche-Ross 50-30-10-10 formula, is less than $1.94. The department shall also make additional allocations, to assure that no county's per capita allocation is less than $1.94.		
4220-001-001—For support of Child Development Programs Advisory Committee appointed pursuant to Section 8254 of the Education Code		163,000
4260-001-001—For support of Department of Health Services		123,142,486
Schedule:		
(a) 100000-Personal Services	146,762,225	
(b) 300000-Operating expenses and equipment	124,437,428	
(c) Special Item of Expense—Hazardous Substances Bond program	0	
(d) Reimbursements	−8,843,799	
(e) Amount payable from the Hazardous Waste Control Account, General Fund (Item 4260-001-014)	−17,180,903	
(f) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 4260-001-044)	−306,000	
(g) Amounts payable from the Genetic Disease Testing Fund (Item 4260-001-203)	−17,024,195	
(h) Amount payable from the Sanitary Registration Fund (Item 4260-001-335)	−86,000	
(i) Amount payable from the Hazardous Substances Account, General Fund (Item 4260-001-455)	−7,716,000	
(ix) Amount payable from the Hazardous Substance Account (Item 4260-020-455)	−1,816,000	
(ixx) Amount payable from the Hazardous Substance Account (Item 4260-030-455)	−2,050,000	
(j) Amount payable from the Hazardous Substance Cleanup Fund (Item 4260-001-825)	−6,379,000	
(k) Amount payable from the Federal Trust Fund (Item 4260-001-890)	−86,653,034	
(m) Amount payable from the Local Health Capital Expenditure Account (Item 4260-001-900)	−166,000	

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Provisions:

1. Should any additional federal funds become available to support venereal disease programs currently operated pursuant to state law by the Department of Health Services, such funds shall be used in lieu of funds appropriated by this item for the same purpose to the extent consistent with federal law or regulations.
2. Department fees subject to the annual fee increase provisions of subdivision (a) of Section 113 and subdivision (a) of Section 114 of the Health and Safety Code as added by Chapter 1012, Statutes of 1980 and Chapter 327, Statutes of 1982, shall be increased at a rate of 1.72 percent effective January 1, 1986. For each 1 percent increase in employee compensation granted in the Budget Act, 0.57 percent shall be added to the fee adjustment.
3. Departmental fees subject to the annual fee increase provisions of Section 116 of the Health and Safety Code as added by Chapter 327, Statutes of 1982 shall be decreased at a rate of 6.38 percent effective January 1, 1986. For each 1 percent increase in employee compensation granted in the Budget Act, 0.53 percent shall be added to the fee adjustment.
4. Effective July 1, 1985, the annual fee, for a general acute hospital, acute psychiatric hospital, special hospital, general acute care/rehabilitation hospital, psychiatric health facility, and chemical dependency recovery hospital is $11.03 per bed.

   Effective July 1, 1985, the annual fee for a skilled nursing facility, intermediate care facility, or intermediate care facility for the developmentally disabled is $52.20 per bed.
5. The Department of Health Services shall submit a report within 30 days of the end of each month to the chairperson of the fiscal committee of each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee if, in any given month, the department's salary savings rate exceeds 9.5 percent. The first report shall be due September 30 and shall cover the July and August pay periods. The report shall identify the reason for the excess savings and the steps the department plans to take to ensure that budgeted positions are filled.

18. Departmental fees subject to the annual fee adjustment pursuant to Section 115(a) of the Health and Safety Code, added by Chapter 327, Statutes of 1982, shall be increased by 1.03 percent effective January 1, 1986. For each 1 percent increase in employee compensation granted in the 1985 Budget Act, 0.37 percent shall be added to the fee adjustment.

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19. The regulation package prepared by the department to establish maximum contaminant levels for drinking water shall include separate documentation of the results from the risk assessment and engineering feasibility studies used to develop the levels so that health risks and costs of achieving recommended levels and alternative levels can be determined. In addition, the regulation establishing the maximum contaminant level shall include an estimate of the health risk imposed on persons exposed to drinking water with contaminants at a level equal to the allowed maximum.

20. The department shall develop, at a minimum, three primary drinking water standards (maximum contaminant levels) during the 1985–86 fiscal year from among the following organic chemicals: trichloroethylene (TCE), 1,1,1,-trichloroethane (TCA), perchloroethylene (PCE), ethylene dibromide (EDB) and dibromochloropropane (DBCP) and develop five action levels (health advisories), as appropriate.

In developing maximum contaminant levels the department shall, in cases of scientific ambiguity, use the criteria most protective of public health and incorporate the following considerations:

(a) The existence of groups or individuals in the population which are more susceptible to adverse effects than the normal healthy adult.

(b) The exposure of contaminants in media other than drinking water (including exposures in food, in the ambient air, and in occupational settings) and the resulting body burden of contaminants.

(c) Possible synergistic effects resulting from exposure to, or interaction by two or more contaminants.

(d) The contaminants exposure and body burden levels which alter physiological function or structure in a manner reasonably suspected of increasing the risk of illness.

The department shall not award any contract for the development of maximum contaminant levels until such time as conflict of interest guidelines have been developed.

Not more than $1,400,000 shall be spent on the development of primary drinking water standards, which shall be based on the state statutes in effect on July 1, 1985.

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21. Of the amount appropriated by this item $2,600,000 shall not be available for expenditure until such time as legislation has been chaptered the provisions of which:
    (a) Immediately establish interim public health drinking water standards for at least 30 organic chemicals; and
    (b) Set forth specific public health criteria for the development of maximum contaminant levels.
22. Funds for state services, administration, research and training projects as identified on page HW56 through HW61 of the 1985–86 Governor's Budget, excluding reimbursement from responsible parties for Superfund clean-ups, are hereby approved for expenditure. The Department of Health Services shall process a budget revision for each project through the Department of Finance prior to any expenditure of funds and shall provide notification pursuant to Section 28 for any amounts in excess of those identified and for projects not identified.
23. Of the amount appropriated by this item, $450,000 shall be used to conduct a special pilot study on treatment technologies and management strategies for improving water quality affected by organic chemicals and trihalomethanes provided that:
    (a) $25,000 shall be available immediately, contingent upon the availability of an equal amount from private sector companies in Santa Clara County, to review available literature regarding drinking water treatment technologies and develop an appropriate work plan to evaluate these technologies; and
    (b) An additional amount of $425,000 shall be available for execution of the work plan, contingent upon the availability of matching funds of $150,000 from the Santa Clara Valley Water District and an additional $275,000 from private sector companies in Santa Clara County.
24. Of the amount appropriated by this item, $553,000 shall be used to contract with the County of Santa Clara for a pilot program to test private domestic water wells. The department shall secure a detailed work plan and evidence of a 25 percent match in cash or in-kind services from the county prior to awarding this contract and shall require a comprehensive report on the findings of this pilot program.

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26. The Department of Health Services is prohibited from implementing a preventive health services reorganization proposal until 30 days after it provides a report to the Legislature which:
    (a) Meets the requirements of the law regarding the Rural Health Division.
    (b) Details position changes associated with the proposal, absent any other department proposals, and provides specific justification for any position increases or decreases.
    (c) Describes the need for and benefits of the reorganization.
27. Whenever the department discovers a contaminant in an existing or potential source of drinking water for which no action level or maximum contaminant level has been established, the department shall develop an action level within 120 days of discovery or advise the Legislature regarding why an action level is not needed or cannot be developed within the time limits prescribed.
28. Of the funds appropriated by this act, the department shall use $48,000 from the General Fund and $52,000 from federal funds for overtime related to off-hours nursing home inspections.
29. The department shall implement cancer registries in the following counties: Amador, El Dorado, Fresno, Kern, Kings, Lassen, Madera, Merced, Monterey, Sacramento, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, Ventura, and Yolo. Any funds not used to implement the cancer registry shall revert to the General Fund. The department shall maintain data that identify the actual cost of implementing a cancer registry. Funds appropriated for the purpose of implementing a cancer registry shall be used only for that purpose.
30. Of the amount appropriated by this item, $365,000 shall be used to assist the 9 regional water quality control boards in cleaning up contamination from leaking underground storage tanks. The department shall provide expert advice and assistance to the State Regional Water Boards on matters relating to the health effects of toxic substances in water supplies and the cleanup of contamination or pollution from leaking underground tanks and other sources. Such advice and assistance shall include, but not be limited to:
    (a) Assistance in developing procedures and protocols for assessing risks resulting from leaking underground tanks.
    (b) Preparation of toxicological risk assess-

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ments.
(c) Expert testimony.
(d) Assistance in preparing public information and educational materials.

31. Of the amount appropriated by this item, the sum of $2,323,000 shall be allocated without regard to fiscal years, for the purpose of implementing Division 9.5 (commencing with Section 10800) of the Health and Safety Code as follows:
(a) To expand the Birth Defects Monitoring Program by contracting with the Counties of Fresno, Sacramento, Orange, Merced, Monterey, Santa Cruz, Solano, Yolo, Yuba, Sutter, Nevada, Amador, Calaveras, Stanislaus, Placer, Tuolumne, Colusa, Humboldt, San Joaquin, and Del Norte .. 2,016,000
(b) To purchase new computer and computer-related equipment and services for the Birth Defects Monitoring Program 307,000

32. The Department of Health Services shall establish an Occupational Health and Disease Prevention Program. The program shall be directed toward:
(a) Establishing an effective occupational disease surveillance program and developing baseline data to be used by epidemiological and occupational health researchers and the Department of Industrial Relations.
(b) Providing technical assistance to local health agencies and other state agencies regarding occupational health issues.
(c) Providing specialized training and technical assistance to local health agencies and other state agencies regarding occupational health issues.

33. The department shall establish 6 positions and allocate $500,000 from this item for the following activities:
(a) Assessing and evaluating deficiencies in existing surveillance mechanisms including but not limited to: physicians First Reports of Occupational Illness, employers First Reports of Occupational Illness, ongoing death certificate studies, and the Northern California Tumor Registry.
(b) Working with other state and local agencies to improve the utility and validity of existing data bases for surveillance of occupational exposures, morbidity and mortality.
(c) Working with other programs within the

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Department of Health Services to generate data pertinent to the study of occupational morbidity and mortality. Such programs shall include but not be limited to the Birth Defects Monitoring Program, Resource for Cancer Epidemiology, and the Center for Health Statistics.

(d) Establishing with local health agencies, private health practitioners, and the Northern and Southern California Occupational Health Centers, pilot surveillance systems for occupational disease.

(e) Providing medical, statistical, and epidemiological assistance to counties to investigate and evaluate occupational health problems.

(f) Establishing a health hazard evaluation program to which county and other state agencies may refer matters for investigation.

(g) Providing epidemiological consultation to Cal/OSHA.

34. The Director of the Department of Health Services shall notify the chairperson of the committee in each house that considers appropriations no later than 30 days after it determines that it is unable fully to respond to a request from a local air district for technical assistance or for a risk assessment related to toxic air contaminants. The notification shall, at a minimum, include a description of the request and the reasons why the request cannot be met.

The Department of Health Services, as part of the toxic air contaminants program, shall recommend to the Department of Industrial Relations a workplace standard for each air contaminant analyzed pursuant to a request from the Air Resources Board.

35. Of the funds augmented to this item, $6,335,000 shall be allocated as follows:

(a) $85,000 to develop informational and educational materials on AIDS.

(b) $1,500,000 to train crisis center staff on AIDS treatment and the ELISA test.

(c) $150,000 for an evaluation of educational materials developed.

(d) $100,000 to support an office of AIDS ombudsman within the department; the ombudsman shall be appointed by the director.

(e) $250,000 to educate home health agency and attendant care workers.

(f) $4,250,000 for information and education grants.

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36. $360,000 of the funds appropriated by this item shall be used to develop the following:
    (a) Audio and video materials for a media campaign that informs the general public that (1) the ELISA test does not diagnose AIDS and (2) it is safe to give blood.
    (b) Written and video materials for individuals considering use of the ELISA test which clarify that the ELISA test is not a diagnostic test.
    (c) Written and video materials providing health professionals with basic information concerning the test and its potential psychological effects.
37. Beginning on October 1, 1985, the Department of Health Services shall submit to the chairperson of the fiscal committee of each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee quarterly status reports on the testing program specified in Chapter 23 of the Statutes of 1985.
38. The department shall adhere to the following requirements when spending the $1,500,000 augmentation for mental health needs arising from the HTLV-III Anti-bodies test.
    (a) The funds shall be spent on (1) training staff in crisis centers on the treatment of AIDS patients or (2) short-term counseling, not to exceed five visits per individual, for individuals who have taken the ELISA test and need additional counseling.
    (b) The department shall develop the request for proposals in conjunction with the Department of Mental Health.
    (c) Funds shall be allocated through the competitive bid process established by Chapter 1257 of the Statutes of 1983.
    (d) The department shall include in the request for proposals, language that authorizes grantees to accept donations from those receiving services.
39. The department shall ensure that (a) educational materials on AIDS are made available in languages other than English, as needed, and that (b) agencies receiving information and education funds coordinate their plans to avoid duplication of effort.
40. The funds available for AIDS information and education contracts may be used for purposes including, but not limited to, (a) General education of the public; and (b) Support of a media campaign on AIDS. The department shall create a reserve with $100,000 of these funds, which shall be used to address specific situations where public concern or fear of AIDS has become, or threatens to become, a problem as determined by the director.

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41. Agencies receiving contracts for AIDS information and education projects may include in their contract up to: (a) 15 percent in overhead costs as long as the overhead is directly related to the project funded by the department; and (b) 20 percent in overhead costs if the committee established pursuant to Chapter 1257, Statutes of 1983 determines that exceptional circumstances exist. All contractors must attest, under penalty of perjury, that the overhead costs claimed are directly related to the project funded by the department. It is the intent of the Legislature that restrictions on overhead costs shall prevent any increase in the size of the state bureaucracy.
42. The department shall (a) develop and submit to the Legislature by October 31, 1985, a comprehensive plan to address the information and education, testing, mental health, research, and treatment needs resulting from the AIDS epidemic, and (b) consider the needs identified when developing the 1986–87 Budget.
43. The committee established pursuant to Chapter 1257 of the Statutes of 1983 shall establish and convene an advisory group consisting of (a) representatives of the committee; (b) the University of California AIDS Research Committee; (c) providers; (d) the Legislature; and (e) the executive branch in order to review both the department's comprehensive plan and issues regarding implementation. The group shall meet no less than twice a year and report its findings to the Legislature and the Governor.
45. The department shall ensure that Hypertension Control areas, shall subcontract with the Asian Pacific Islander Task Force, the East Los Angeles Task Force, and the Martin Luther King-Drew Medical Center for no less than $60,000 each.
46. Of the amount appropriated by this item, $747,000 shall be used to fund hypertension control services for identified hypertensive patients of target ethnic groups in Los Angeles, the San Francisco Bay Area, Fresno, and San Diego.
47. The department shall periodically evaluate the hypertension control services provided to determine their effectiveness in assisting patients to maintain preferred treatment regimes.
48. The department shall issue contracts to evaluate the effectiveness of the AIDS information and education materials produced by its contractors and shall submit a written evaluation to all appropriate parties.

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49. The department shall spend $250,000 on education of hospital, home health agency and attendance care workers. In expending the funds, the department:
(a) Shall ensure that educational materials shall be developed in languages other than English.
(b) Shall allocate funds through the competitive process established by Chapter 1257 of the Statutes of 1983.
(c) Shall ensure that local agencies allocated funds coordinate plans to avoid duplication of effort.

52. The department, in consultation with the counties, shall develop a method for including assets in determining eligibility and repayment obligations, based on the systems proposed by the southern California CCS administrators and the Auditor General, a combination of these systems, or other methods.

The department shall submit to the fiscal committees and the Joint Legislative Budget Committee by December 1, 1985, a detailed plan for a pilot project to collect information on the feasibility of implementing the method selected by the department. Under the pilot project, families would submit information about assets for purposes of information gathering and testing administrative procedures. Actual eligibility and repayment obligations would be based on existing law. The plan shall include (a) a detailed description of the proposed method and the specific administrative procedures involved, (b) a schedule for implementing the pilot project, (c) an evaluation plan, and (d) a procedure for reimbursing county administrative costs.

The department shall implement the nine-month pilot program in no fewer than four independent counties by February 1, 1986. The department shall make status reports available as requested.

The department shall submit to the fiscal committees and the Joint Legislative Budget Committee a final evaluation by April 1, 1987. The evaluation report shall include, at a minimum, a comparison between the current system and the method tested of (a) the number of families that are determined eligible; (b) the costs for services to eligible clients; (c) the number of families subject to repayment; (d) the total repayments assessed; distributed by the amount of the repayment; and (e) county and state administrative costs. The report shall also identify problems with implementing the method and discuss how the tested system might be modified to ameliorate these problems.

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53. The California Children's Services program and the Audits and Investigations Division shall jointly develop a schedule and procedures by October 1, 1985, that ensure independent CCS programs are comphrehensively reviewed every two years for compliance with both programmatic and fiscal requirements. The program and the division shall each conduct comprehensive reviews according to these procedures in four independent counties by December 31, 1985, four by March 30, 1986, and four by June 30, 1986. The 12 counties reviewed by each unit shall represent at least 40 percent of CCS payments. The reports shall be available 60 days after completion of the reviews.

These reviews shall include an examination of a sample of records to determine compliance with the department's existing requirements, specifically including, but not limited to, insurance company billing, referral to Medi-Cal, collection of repayment obligations, caseload closure, and pharmaceutical payments. The department shall also develop and implement formal procedures and timelines for followup on review findings. The procedures shall involve county submission of a corrective action plan and regular onsite followup by department staff to ensure compliance with program requirements when reviews indicate deficiencies.

56. In 1985–86, the department shall survey rural, unsurveyed counties to detect sites that pose a potential threat to the public health and the environment. The following procedures shall be used in surveying counties to detect potential hazardous waste sites: (a) review history of hazardous materials and waste generation in the county; (b) review available information from county/local agencies and the Regional Water Quality Control Boards; and (c) conduct initial assessments for all potential sites identified.

57. The department shall notify the chairpersons of the appropriate legislative policy committees, the legislative fiscal committees, and the Joint Legislative Budget Committee and the members whose districts include a Superfund site on the federal National Priority List whenever a change occurs as to the governmental agency with lead responsibility for the mitigation at that site. The notification shall include an explanation for that change in reference to the criteria for deciding lead status submitted by the department to the Legislature in May 1985. The department shall provide the notification 30 days prior to the change or within 10 days after the change in an emergency or in the case of imminent or substantial endangerment

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of public health.

58. The sum of $500,000 is appropriated to the Department of Health Services to fund a contract for purposes of training local health department personnel in the management and control of hazardous waste. The contractor shall conduct training sessions in locations throughout the state. The training sessions shall include, but not be limited to, the following:
    (a) Statutes and regulations dealing with hazardous waste emphasizing recent changes in federal and state statutes and regulations.
    (b) Inspection of hazardous waste storage facilities. Training to include procedures for working with law enforcement agencies and collection and presentation of evidence in legal proceedings.
    (c) Personnel protection and safety.
    (d) Manifest requirements for hazardous waste generators, transporters and storers.
    (e) Department of Transportation Title 49 requirements.
    (f) Emergency response to hazardous waste spills.
    (g) Hazardous waste treatment technology.
    (h) Remedial action, site cleanup and mitigation.

    The contractor shall have demonstrated abilities in the following areas:
    (a) Curriculum development and provision of training in the public health aspects of hazardous waste management.
    (b) Development of needs assessments and program evaluation instruments as such instruments relate to local public health agencies.
    (c) Experience in provision of training to local public health agency personnel.
    (d) Capabilities to recruit expert consultants in the field of hazardous waste management including individuals with expertise in the delivery of local programs.
    (e) Detailed knowledge of the delivery of local public health services.
    (f) Detailed knowledge of local hazardous waste management programs.

59. The Department of Health Services shall complete a study which identifies types or categories of hazardous wastes which should not be placed in or onto the land due to the toxicity, persistence, mobility or bioaccumlative properties of the waste. The department shall propose regulations by June 30, 1986, to restrict these wastes from land disposal.

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60. The Department of Finance may authorize the transfer of funds appropriated in Item 4260-010-455 if it notifies the Legislature pursuant to Section 28 of this act and submits complete documentation regarding how the transferred funds would be spent and justification for the proposed expenditures.

61. The total amount of expenditures from Items 4260-020-455 and 4260-030-455 shall not exceed the total amount received from responsible parties.

62. Reimbursements from responsible parties for expenditures from the Hazardous Substance Account or other state funds, excluding bond act funds, shall be scheduled in Item 4260-030-455. The Department of Finance may authorize the expenditure of funds appropriated in Item 4260-030-455 to Item 4260-020-455 if it notifies the Legislature pursuant to Section 28.00 of this act and submits complete documentation regarding how the transferred funds would be spent and justification for the proposed expenditure.

65. The reduction of $750,000 relating to the proposed need for additional laboratory needs in the Toxic Substances Control Division is exempt from Section 13332.15 of the Government Code.

63. Except as otherwise prohibited by law, the department shall promulgate emergency regulations to adjust the public health fees set by regulation to an amount, such that if the new fees were effective throughout the 1985–86 fiscal year, the estimated revenues would be sufficient to offset at least 95% of the approved program level intended to be supported by such fees. This provision shall not apply to the fees for bottled water licenses, water vending machines and shellfish certificates. For radioactive materials licenses, the approved program level shall be calculated based on the total approved program level less the portion of the total approved program level attributable to fee-exempt facilities.

66. Of the amounts appropriated for hypertension control projects, $180,000 shall be used to conduct a study on stress and hypertension among bus drivers.

67. All of the funds appropriated by this item for the 36 state personnel positions in the Child Health Information and Claiming Unit may be used only for state personnel. None of these funds may be used or redirected to contract for claims processing services.

4260-001-014—For support of Department of Health Services, for transfer to Item 4260-001-001, payable from the Hazardous Waste Control Account, General Fund 17,180,903

Item	Amount
Provisions: 1. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services payable from the Hazardous Waste Control Account, General Fund.	
4260-001-044—For support of Department of Health Services, for transfer to Item 4260-001-001, payable from the Motor Vehicle Account, State Transportation Fund	306,000
4260-001-203—For support of Department of Health Services, for transfer to Item 4260-001-001 payable from the Genetic Disease Testing Fund	17,024,195
Provisions: 1. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services, payable from the Genetic Disease Testing Fund.	
4260-001-335—For support of Department of Health Services, for transfer to Item 4260-001-001, payable from the Sanitarian Registration Fund	86,000
Provisions: 1. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services, payable from the Sanitarian Registration Fund.	
4260-001-455—For support of Department of Health Services, for transfer to Item 4260-001-001, payable from the Hazardous Substance Account, General Fund	7,716,000
Provisions: 1. The limitations of Item 9840-001-494 shall not apply to any deficiency expenditure authorization for the Department of Health Services, payable from the Hazardous Substances Account, General Fund. 2. Changes in allocations among the various sites identified to receive cleanup funds are not subject to the provisions of Section 28 of this act.	
4260-001-825—For support of the Hazardous Substance Cleanup Bond Act program in the Department of Health Services, for transfer to Item 4260-001-001, payable from the Hazardous Substance Clean-up Fund	6,379,000
4260-001-890—For support of Department of Health Services, for transfer to Item 4260-001-001, payable from the Federal Trust Fund	86,818,034
Provisions: 1. Funds appropriated in this item for support of public health programs shall be transferred to the Public Health Federal Fund. 2. Limitations and conditions applicable to Item 4260-001-001 are also applicable to this item if appropriate.	

Item	Amount
4260-001-900—For support of Department of Health Services, in lieu of the amounts which would otherwise be appropriated in the Local Health Capital Expenditure Account of the County Health Services Fund pursuant to Chapter 1351, Statutes of 1980, for transfer to Item 4260-001-001, payable from the Local Health Capital Expenditure Account	166,000
Provisions: 1. The limitations of Item 9840-001-988 shall not apply to any deficiency expenditure authorization for the Department of Health Services, payable from the Local Health Capital Expenditure Account.	
4260-005-455—For support of Department of Health Services, payable from the Hazardous Substances Account, General Fund	0
Schedule: (a) Superfund Special Projects ..... 45,325,000 (b) Amount payable from Federal Trust Fund (Item 4260-006-890) ..—45,325,000	
Provisions: 1. Reimbursements from the federal government for expenditures from the Hazardous Substance Account or other state funds, excluding bond act funds, shall be transferred to the Superfund Bond Trust Fund on June 30, 1986. However, the Department of Finance may authorize these funds for expenditure for other purposes if it notifies the Legislature pursuant to Section 28 of this act and submits complete documentation regarding how the transferred funds would be spent and justification for the proposed expenditures.	
4260-005-890—For support of Department of Health Services, payable from the Federal Trust Fund	184,209,000
Provisions: (1) Funds appropriated in this item shall be transferred to the Public Health Federal Fund.	
4260-006-890—For support, Department of Health Services, for transfer to the Hazardous Substance Account (Item 4260-005-455), payable from the Federal Trust Fund	45,325,000
4260-010-455—For support of Department of Health Services, payable from the Hazardous Substances Account, General Fund	1,836,000
Provisions: 1. Funds appropriated in this item shall be transferred from the Hazardous Substances Account (Item 4260-001-455).	

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2. No funds appropriated by this item may be encumbered or expended unless and until the Department of Finance notifies the Legislature pursuant to Section 28.00 and submits complete documentation regarding how the transferred funds are to be spent and justification for the proposed expenditure. Any funds remaining in this item on June 30, 1986, shall be transferred to the Superfund Bond Trust Fund.

4260-020-455—For support of Department of Health Services, payable from the Hazardous Substance Account, General Fund 1,816,000

Provisions:

1. The total amount of expenditures from this item and Item 4260-030-455 shall not exceed the total amount received from responsible parties.

4260-030-455—For support of Department of Health Services, payable from the Hazardous Substance Account, General Fund 2,050,000

Provisions:

1. Reimbursements from responsible parties for expenditures from the Hazardous Substance Account or other state funds, excluding bond act funds, shall be transferred to the Superfund Bond Trust Fund on June 30, 1986. However, the Department of Finance may authorize these funds for expenditure for other purposes if it notifies the Legislature pursuant to Section 28.00 and submits complete documentation regarding how the transferred funds would be spent and justification for the proposed expenditures.

4260-101-001—For local assistance, Department of Health Services, Medical Assistance Program, payable from the Health Care Deposit Fund (912) after transfer from the General Fund 2,177,287,000

Schedule:

(a) 50.10-Eligibility (County Administration) 127,332,000
(b) 50.11-Benefits (Medical Care and Services) 4,351,565,000
(c) 50.50-Fiscal Intermediary Management 28,263,000
(d) Reimbursements ..... −22,707,000
(e) Amount payable from the Federal Trust Fund (Item 4260-101-890)−2,307,166,000

Provisions:

1. After June 30, 1986, a transfer to the Health Care Deposit Fund from this item shall be permitted to meet the total General Fund obligation incurred pursuant to this item.

Notwithstanding other provisions of this act or other state law, up to $23,286,000 in federal funds received during 1985–86 for Aid to the Totally Disabled, related to prior-year expenditures under Section 14157 of the Welfare and Institutions Code for expenditures for health care services

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pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, and up to $4,500,000 received from counties during 1985–86 as reimbursements for General Fund expenditures related to excess denial rates in prior years, are hereby appropriated and shall be expended as soon as practicable for the state's share of payments for medical care services, county administration and fiscal intermediary as follows:

(a) 50.10-Eligibility (County Administration)	12,493,000
(b) 50.11-Benefits (Medical Care and Services)	14,164,000
(c) 50.50-Fiscal Intermediary Management	1,129,000

2. Notwithstanding any other provision of law, both the federal and nonfederal shares of any money recovered for previously paid health care services, provided pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, are hereby appropriated and shall be expended as soon as practicable for medical care and services as defined in the Welfare and Institutions Code.
3. Notwithstanding any other provision of law, accounts receivable, for recoveries as described in proviso 2 above, shall have no effect upon the positive balance of the General Fund or the Health Care Deposit Fund. Notwithstanding any other provision of law, money recovered as described in this item required to be transferred from the Health Care Deposit Fund to the General Fund shall be credited by the State Controller to the General Fund without regard to the appropriation from which it was drawn.
4. Without regard to fiscal year, the General Fund shall make a loan available not to exceed a cumulative total of $45 million to be transferred as needed to the Health Care Deposit Fund to meet cash needs. Such loans are subject to repayment provisions of Section 16351 of the Government Code. Any additional loan requirement in excess of $45 million shall be processed in the manner prescribed by Section 16351 of the Government Code.
5. Notwithstanding any other provision of law, the Director of Health Services may give public notice relative to proposing or amending any rule or regulation which could result in increased costs in the Medi-Cal program only after approval by the Department of Finance as to the availability of funds; and any rule or regulation adopted by the Director of Health Services and any communication which revises the Medi-Cal program shall only be effective from and after

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the date upon which it is approved as to availability of funds by the Department of Finance.

6. No funds appropriated by this item shall be used for payment to any provider of durable medical equipment under a pilot program in Fresno and Madera Counties operating pursuant to Article 7 (commencing with Section 14490) of Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions Code, who sells its services or goods outside the geographic area of the pilot program without complying with the treatment authorization request procedure of the Department of Health Services.
7. Recoveries of advances made to counties in prior years pursuant to Section 14153 of the Welfare and Institutions Code are hereby reappropriated to the Health Care Deposit Fund for reimbursement of those counties where allowable costs exceeded the amounts advanced. Recoveries in excess of the amounts required to fully reimburse allowable costs shall be transferred to the General Fund When a projected deficiency exists in the Medical Assistance Program, such funds, subject to notification to the Chairperson of the Joint Legislative Budget Committee are hereby appropriated and shall be expended as soon as practicable for the state's share of payments for medical care and services, county administration and fiscal intermediary services.
8. The reimbursement rate for any procedure or service shall not be increased to exceed the Medicare rate for a comparable procedure or service, nor shall the reimbursement rate for any procedure or service which is currently above the Medicare rate be increased above its current level.
9. Notwithstanding any other provision of law, the Department of Health Services shall not assess fiscal sanctions against any county during 1985–86 and thereafter based solely upon a state established error rate standard. The department shall pass on to counties any federal sanction imposed upon the state based on the following program:
   (a) The department shall institute an eligibility quality control program to verify the eligibility determination of a sample 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 the Welfare and Institutions Code.
   (b) A review period shall be defined as one year and shall coincide with the federal fiscal year. The department shall draw a random sample of cases for each period. The random sample shall be drawn to ensure a minimum number of cases reviewed in each county in each review period accord-

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ing to the following:

(1) All cases shall be sampled in any county with less than 50 Medi-Cal cases.

(2) 50 cases in any county with 0.01% to 0.50% of the Medi-Cal cases.

(3) 75 cases in any county with 0.51% to 1.00% of the Medi-Cal cases.

(4) 100 cases in any county with 1.01% to 3.00% of the Medi-Cal cases.

(5) 125 cases in any county with 3.01% to 10.00% of the Medi-Cal cases.

(6) 650 cases in any county with more than 10.00% of the Medi-Cal cases.

(c) When family members maintain separate residences, but eligibility is determined as a single unit because of the provisions of Section 14008, the county to 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 fiscal penalties as provided by this section to assure adequate county administrative performance.

(e) The director shall hold counties financially liable for payments made on behalf of ineligible persons or persons with an incorrect share of costs.

When a sampled case is found to include an ineligible person or a person with an incorrect share of cost, written notification will be sent to the county department which describes the error and requests a written response within two weeks. The county must indicate whether it agrees or disagrees with the findings. If the county disagrees, the department reevaluates the error findings, taking into considerations any additional facts contained in the county's response. The county is again notified of the department's findings. If the county continues to disagree with the error findings, the county may appeal to the Chief, Audits and Investigations Division, requesting that the department review the case and render a final decision. The director may reduce or waive the fiscal liability of a county if the department is unable to meet the minimum sample requirements as earlier defined or if an individual county experienced a natural disaster, job actions, or other occurrences which impacted the findings in an individual county as determined by the director.

(f) The department shall utilize the methodology detailed in this subsection to establish counties' fiscal penalties. The depart-

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ment shall determine each county's case error rate for each review period by dividing the number of cases reviewed in that county found in error by the number of cases reviewed in that county. State caused errors shall not be included in this calculation. Case error rates shall be arrayed from highest to lowest. From this array the department shall determine the percentage of counties liable as follows:

(1) The 60% of counties with the highest case error rates shall be liable if the state's dollar error rate exceeds the federal standard by 0.01% to 1.00%.
(2) The 70% of counties with the highest case error rates shall be liable if the state's dollar error rate exceeds the federal standard by 1.01% to 2.00%.
(3) The 80% of counties with the highest case error rates shall be liable if the state's dollar error rate exceeds the federal standard by 2.01% to 3.00%.
(4) The 90% of counties with the highest case error rates shall be liable if the state's dollar error rate exceeds the federal standard by 3.01% to 4.00%.
(5) All counties shall be liable if the state's dollar error rate exceeds the federal standard by 4.01% or more.

As used herein the state's dollar error rate means the Medicaid dollar error rate reported to the department by the Department of Health and Human Services less any portion of this error rate attributable to state caused errors. The term federal standard means the Medicaid dollar error rate standard to which the state is held accountable.

For each county determined liable, the department shall calculate a penalty multiple which shall be the product of a liable county's case error rate multiplied by the liable county's percentage of statewide Medi-Cal cases. Each county's fiscal penalty shall be the product of a county's penalty multiple divided by the sum of all penalty multiples, multiplied times the penalty bank. The penalty bank includes all federal fiscal sanctions, federal withholds, federal disallowances, and any associated General Fund expenditures, minus the value of any state caused errors.

If after the department has assessed fiscal penalties to counties the federal government reduces or eliminates any federal fiscal sanction, federal withhold, or federal disallowances, the department shall reduce or eliminate the corresponding fiscal penalty assessment including any associated

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General Fund expenditures to liable counties.

(g) 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 does not result in an increase in the federal 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 provision shall not be construed to interfere with the rights of counties to outstation eligibility staff.

(h) Notwithstanding the number of counties determined liable for fiscal penalties under this section, individual county corrective action plans as prescribed by the department will be required from all counties which exceed a 15% case error rate.

(i) Any penalties imposed under this system shall be collected through direct repayment from liable counties rather than through any reduction in funds otherwise due to counties.

The State Director of Health Services shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code to implement this program. The adoption of such regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, or safety. Notwithstanding any provision 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 to implement this program shall not be subject to any review, approval, or disapproval by the Office of Administrative Law at any stage of the rulemaking process. These regulations shall become effective immediately upon filing with the Secretary of State.

11. Of the funds appropriated by this item, up to $25,000 may be allocated for attorney fees pursuant to Section 10962 of the Welfare and Institutions Code without prior notification to the Legislature. Individual settlements authorized under this language are limited to no more than $5,000. The semiannual estimates of Medi-Cal expenditures due to the Legislature in January and May shall reflect attorney fees paid fifteen (15) or more days prior to the

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transmittal of the estimate.

12. For the purpose of determining rates paid during 1985–86 to prepaid health plans (PHP), the Department of Health Services shall use the method used in calculating 1984–85 PHP rates. Subject to the availability of full federal financial participation, rates for PHPs with Medi-Cal contracts in effect as of June 30, 1985, shall be no lower than the lesser of rates paid during 1984–85 or PHP costs as projected for the 1985–86 rate period (including the costs of administration) as these costs have been customarily calculated by the department.

In light of recent information indicating that Prepaid Health Plans may be more costly than the Medi-Cal fee-for-service system, the Speaker of the Assembly, the Chairman of the Senate Rules Committee, and the Governor shall each appoint two members to an advisory group which shall oversee a study to be conducted by the Department of Health Services to determine the relative cost efficiencies of Prepaid Health Plans and the fee-for-service system in delivering Medi-Cal services and the causes of such efficiencies. The study shall be completed and submitted to the Legislature by April 1, 1986.

The Department of Health Services shall submit a report to the Legislature by April 1, 1986, comparing services under Medi-Cal in the fee-for-service (FFS) and prepaid health plan (PHP) systems and the way in which the use of services has changed in the past six fiscal years. The report shall include at least the following:

(a) Comparisons of various services' utilization rates between Medi-Cal FFS and PHP systems controlling for appropriate factors (such as age or sex).
(b) Comparisons of changes in various services' utilization rates over time in the two systems controlling for appropriate factors.
(c) Changes in PHP enrollment and the factors contributing to those changes.
(d) Changes in the conditions being treated under the FFS and PHP systems.

13. Due to Medi-Cal eligibility changes caused by legislative mandate, the Legislature has determined that these eligibility changes have caused a significant increase in the number of nonapproved Medi-Cal applications. The Legislature therefore makes a finding of special circumstance for all counties whose nonapproval ratios have increased beyond the base year level due to these circumstances and, notwithstanding any other provision of law, provides in this item, (a) 50.10-Eligibility (County

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	Administration), $5.8 million for Medi-Cal eligibility determination costs in the 1982–83 fiscal year and the 1983–84 fiscal year which have not been reimbursed to counties because of the base year limitation. In order to obtain these reimbursements, counties shall apply for these funds and the State Department of Health Services shall certify there is sufficient evidence that counties are not including eligibility determination costs for the medially indigent services (MIA) program in their Medi-Cal administrative costs. The Department of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee of each house, 30 days prior to expenditure of the funds on its finding of the existence of special circumstances and the amount to be withheld from each county. Any funds withheld shall revert to the General Fund. The State Department of Health Services shall report to the chairperson of the fiscal committee of each house and to the Chairperson of the Joint Legislative Budget Committee by March 15, 1986, regarding the feasibility of continuing the excess denial rate withhold policy established by Chapter 1594, Statutes of 1982.	
14.	The State Department of Health Services, in cooperation with the Department of Social Services, by October 1, 1985, in consultation with the County Welfare Directors Association, shall develop a plan for conducting a study of the Medi-Cal eligibility determination process to assess and analyze existing eligibility worker caseloads and determine the appropriateness of budgeted caseload targets in the 1985–86 fiscal year in light of existing federal and state laws, regulations and court decisions which have affected the administration of this program. The department's study plan shall address concerns expressed by counties including but not limited to the following: (a) The time necessary to perform federal and state mandated tasks in the Medi-Cal eligibility determination process; (b) The overhead costs related to the Medi-Cal eligibility determination process; (c) Variances in service delivery methods at the county level, including staffing differences based upon the types and levels of staff utilized as well as the extent of manual versus automated processing; and (d) To the extent possible, county Medi-Cal processing activities which are assessed and analyzed shall be from geographically	

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representative areas of the state and shall be representative of very large, large, medium, small and very small caseloads.

The department shall begin the study no later than January 1, 1986, after the Joint Legislative Budget Committee reviews the study plan. The department shall use the 1984–85 fiscal year as the base year for the cost control plan in the 1986–87 fiscal year. Any other changes in the budgeted caseload targets after the 1986–87 fiscal year shall be postponed until the study has been completed and the department has presented the study findings to the Legislature, with recommendations on appropriate caseload targets and funding levels. These recommendations shall be developed in consultation with the County Welfare Directors Association.

15. Amounts identified as abatements to the county medical services program for retroactive aid to the Totally Dependent Program claims shall be transferred from the health care deposit fund to the county medical services program without regard to fiscal year.

16. The Department of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee of each house, prior to the expenditure of funds pursuant to the final court order in the case of Jackson vs. Rank, on the appropriate staffing levels necessary to meet mandated workload increases, if any. It is the intent of the Legislature that the department's staffing levels include the staff necessary to meet the permanent workload increases mandated by this court case.

17. The transfer of amounts from one category in this item to another category shall not exceed 3 percent of the amount scheduled for the receiving category. No augmentation of amounts available for expenditure in any category shall be made 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 not sooner than such lesser time as the chairperson of the committee, or his or her designee, may in such instance determine.

18. When a date for public hearing has been established for a change in any program, rule, or regulation, or the Department of Finance has approved any communication revising any department program, the chairperson of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee shall be notified if the annual Gen-

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eral Fund cost of the proposed change is $1,000,000 or more.

19. Change orders to the medical or the dental fiscal intermediary contract for amounts exceeding a total cost of $250,000 shall be approved by the Department of Finance not sooner than 30 days after written notification of the change order is provided to the chairpersons of the fiscal and policy committees in each house, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may designate.

    If there are changes or potential changes in federal funding, the Department of Finance shall provide timely written notification of the changes to the chairperson of the fiscal committee in each house and the Chairperson of the Joint Legislative Budget Committee.

20. Within 60 days of the effective date of this bill, the Department of Health Services shall include in the Medi-Cal Drug Formulary all federal FDA approved non-steriodal anti-inflammatory drugs recommended for continued inclusion or addition by the department's Medical Therapeutics and Drug Advisory Committee at their December 7, 1984, meeting.

21. It is the intent of the Legislature that utilization controls and reimbursement and service limitations, concerning vision care established pursuant to subsections (10) and (11) of Section 77 of Chapter 1594, Statutes of 1982, extended by Section 149 of Chapter 323, Statutes of 1983, and by Chapter 268, Statutes of 1984, shall cease to have effect during the 1985–86 fiscal year. Controls on service utilization for services affected by these provisions are intended to return to those in place prior to June 30, 1982.

22. Notwithstanding subdivision (a) of Section 14005.12 and Section 11003 of the Welfare and Institutions Code, it is the intent of the Legislature that maintenance need levels for a family of two adults be set at levels prescribed by subdivision (c) of Section 14005.12, even if federal financial participation is only available for those families at a lower maintenance need level. However, if the U.S. Department of Health and Human Services issues a final ruling that would result in loss of federal financial participation for more than the added cost of a higher maintenance need level for two-adult families, then the maintenance need level for these families shall be set at the maximum allowed under federal law.

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23. None of the funds appropriated by this item shall be used to pay for induced abortions. The exclusive means for paying for induced abortions shall be through the appropriation made in Item 4260-105-001.

24. In allocating the $10 million appropriated in this item and $10 million in Item 4260-101-890 for disproportionate providers, the California Medical Assistance Commission shall take into consideration the $15 million augmentation for operating subsidies to the University of California teaching hospitals in Item 6440-001-001.

25. Notwithstanding any other provisions of law, if Item 4260-106-001 includes an increase of 9% or more for physician services under Medi-Cal, the Director of Health Services shall establish physician reimbursement rates utilizing the 1974 Relative Value Studies as the basis for determining the amounts which physicians are reimbursed under Medi-Cal. The department may develop its own reimbursement rates, or utilize the most recent edition of Physicians Current Procedural Terminology for medical procedures not included in the 1974 Relative Value Studies. Rates established pursuant to this provision shall be effective 30 days after the enactment of the Budget Act. With the written approval of the Department of Finance, the director shall adopt regulations setting these rates as emergency regulations in accordance with the provisions of the Administrative Procedure Act. Regulations established pursuant to this provision shall be exempt from the 30-day requirement contained in Section 14105 of the Welfare and Institutions Code.

4260-101-036—For local assistance, Department of Health Services, for county hospital equipment.... 5,000,000

4260-101-890—For local assistance, Department of Health Services, for transfer to Item 4260-101-001, payable from the Federal Trust Fund..... 2,307,166,000

Provisions:

1. Provisions 2, 3, 5 to 8, inclusive, and 11, 12, 15, 17, 19, and 24, contained in Item 4260-101-001 are also applicable to this item.

4260-105-001—For abortions, Department of Health Services, Program 50.11—Medical Assistance Program, benefits, for transfer to the Special Financing Fund 11,697,000

Provisions:

1. This item shall be the sole source of general funds for abortions.

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2. The expenditures of funds appropriated by this item for induced abortions shall be limited for persons eligible for the Medi-Cal program to the extent that federal matching funds are available for these purposes; except that, regardless of whether federal matching funds are available, funds may be provided for induced abortions for these persons under any of the following circumstances:
   (a) Where the life of a woman would be endangered if the pregnancy were allowed to continue, and when so certified under penalty of perjury by two physicians, one of whom, where practicable, is a specialist in the affected medical discipline, and documentation thereof is provided with the claim for payment.
   (b) Where the pregnancy results from an act punishable under Section 261 of the Penal Code, and this act has been reported, within 60 days of its occurrence, to a law enforcement agency or a public health agency which has immediately reported it to a law enforcement agency, and the abortion occurs during the first trimester.
   (c) Where the pregnancy results from an act punishable under Section 261.5 of the Penal Code, and the female is under 18 years of age, and the abortion is performed no later than the first trimester, provided that the female's parent or guardian or, if none, an adult of the female's choice, is notified at least five days prior to the abortion by the physician who performs the abortion. Regulations governing the notice requirement shall be promulgated by the Director of Health Services.
   (d) Where the pregnancy results from an act punishable under Section 285 of the Penal Code, and this act has been reported to a law enforcement agency or a public health agency which has immediately reported it to a law enforcement agency, and the abortion occurs not later than during the second trimester.
   (e) Where it is determined by prenatal studies limited to amniocentesis, fetal blood sampling, fetal angiography, ultrasound, x-ray, or maternal blood examination that the woman will give birth to a child with severe genetic or congenital abnormality and the abortion occurs not later than the second trimester.

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3. (a) The provider's claim for payment for abortion services shall be accompanied by documentation which specifies the circumstances under which the abortion was performed. Claims without this documentation shall not be paid.
   (b) In every case, prior to abortion, the provider shall make available to the woman appropriate counseling regarding the situation, complications, risks, benefits, and alternatives.
   (c) By May 1, 1986, the Department of Health Services shall provide the Legislature a report listing the number of abortions theretofore paid for during the fiscal year 1985–86 pursuant to this act. The report shall specify the number of abortions performed under each category, and further specify the reasons or conditions within each category which qualified the particular pregnancy for the abortion and payment pursuant to this provision.
4. Nothing in this item shall be interpreted to prohibit payment for drugs or devices to prevent implantation of the fertilized ovum.
5. Limitation on payment for abortions provided for in this item shall apply only to abortions performed after August 15, 1985.
6. None of the funds appropriated by any other item in this act shall be used to pay for abortions.
7. The State Controller shall place all funds appropriated by this item into the Special Financing Fund, which is hereby created. Henceforth, the director shall direct payment, and the State Controller shall draw warrants for payments as allowed by this item, only from the Special Financing Fund.
8. As promptly as possible, the director shall notify providers and beneficiaries of the restrictions imposed by this item. The restrictions upon providers and beneficiaries shall become effective as soon as practicable after they receive notice from the director.
9. If any provision of this item or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

4260-106-001—For cost-of-living increases, Department of Health Services, to be transferred to and in augmentation of programs upon approval of the Department of Finance, in accordance with the following schedule 80,458,001

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Schedule:

(a) 50.10-Eligibility (County Administration) (for transfer to Item 4260-101-000) 2,134,000

(b) 50.11-Benefits (Medical Care and Services) (for transfer to Item 4260-101-001) 159,911,002

(c) Amount payable from the Federal Trust Fund (Item 4260-106-890) ..—81,587,001

Provisions:

1. Notwithstanding any other provisions of law to the contrary, General Fund money appropriated by this item for Program 50.10, County Administration, shall be used solely to support the General Fund share of 1985–86 county administrative costs exclusive of any 1985–86 cost-of-living increases granted by counties.
2. Except as provided in Provision 25 of Item 4260-101-001, $19,411,001 from the General Fund in this item, together with $19,393,001 in federal funds appropriated in Item 4260-106-890, is intended for purposes of permitting the restoration of rate decreases effected by Sections 77, 78, and 79 of Chapter 1594, Statutes of 1982, except for those portions restored pursuant to Section 66 of Chapter 268, Statutes of 1984.
3. Long-term care facilities shall pass through a minimum of 75 percent of the rate increase attributable to increased labor costs for nonadministrative employees in relation to the dollar amount attributed in the "Salaries, Wages and Benefits" component which is the ratio of the labor cost component to the total COLA utilized in the rate setting process for those employees in the annual cost-of-living adjustment to Medi-Cal rates for skilled nursing and intermediate care facilities.

   The increases in labor provided under this item shall be in addition to the increases in labor required by Chapter 11 Statutes of 1985 (SB 53).

   To ascertain whether the amounts the Legislature provides in cost-of-living funds for other costs is adequate, the Legislative Analyst's office shall review the department's methodology for calculation of the COLA and comment in the analysis of the Budget Act of 1986–87 on the adequacy of funds provided by the COLA for each of the cost categories included in the COLA adjustment.

   In order to assure compliance with labor pass-through provisions, the department shall adopt regulations setting forth a median labor cost base on a per patient day basis for each reimbursement category. The department shall adjust the base to reflect funds included in the annual rate increase which are attributable to salaries, wages, and benefits. Each long-term

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health care facility whose labor cost is less than the newly adjusted labor cost base shall spend a minimum of 75 percent of the rate increase attributable to labor cost increases for nonadministrative employees for salaries, wages and benefits to the extent the facility expenditures reach or exceed the median adjusted labor cost per patient day established by the department.

The department shall provide a waiver if it finds that the facility is unable to provide adequate patient care without diverting funds from labor to other categories of the cost-of-living adjustment. The department shall report to the Legislature by January 1, 1986, on the number of waivers granted and the reasons the waivers were needed.

The department shall audit to ensure compliance with this section. Any facility which does not comply shall be liable to the state for the amount of funds paid to the facility based upon the labor costs requirements not expended for labor, plus a penalty equal to 10 percent of the funds not so distributed.

4260-106-890—For cost-of-living increases, Department of Health Services, for transfer to Item 4260-106-001, payable from the Federal Trust Fund 80,787,001

4260-111-001—For local assistance, Department of Health Services 1,066,641,334

Schedule:

(b) 11-Health Protection 6,827,000

(c) 20-Community Health Services 109,136,334

(d) 25-County Health Services 942,473,000

(e) 40-Rural Health Services 8,205,000

Provisions:

1. Program 11-Health Protection:
   (a) Should influenza vaccine, or funding for influenza vaccine, become available to the state, such resources or funds shall be used in lieu of equivalent funds appropriated from the General Fund for such purpose to the extent that the same target population is served.
2. Program 20-Community Health Services:
   (a) Funds appropriated in this item for services to physically handicapped children shall be used in accordance with provisions of Article 2 (commencing with Section 248) of Chapter 2 of Division 1 of the Health and Safety Code, provided that any person who is eligible for and is receiving services under the program funded by this item shall not be denied services or suffer an interruption of services because of any relocation within this state.
   (b) Collections of family repayments (a) by CCS in excess of $750,000 and (b) by GHPP

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in excess of $70,000 shall be used to offset the General Fund appropriation to those programs.

(c) The CCS Program shall require all CCS applicants who are potentially eligible for cash grant public assistance to apply for Medi-Cal eligibility prior to becoming eligible for CCS funded services, unless the individual declines to apply on the basis of known ineligibility under state law and the regulations promulgated thereunder.

3. Program 25-County Health Services:
   (a) The reimbursement rate for any procedure or service shall not be increased to exceed the Medicare rate for a comparable procedure or service, nor shall the reimbursement rate for any procedure or service which is currently above the Medicare rate be increased above its current level.
   (b) The $1.5 million for AIDS treatment through county medically indigent services programs shall be distributed to counties on the basis of need through a request-for-proposals process.
4. Amounts identified as abatements to the county medical services program for retroactive aid to the totally dependent program claims shall be transferred from the Health Care Deposit Fund to the county medical services program without regard to fiscal year.
5. Funds appropriated in this item for Adolescent Family Life Demonstration Programs shall be allocated as contracts to selected private nonprofit and public agencies in accordance with provisions of the Supplemental Report to this act.
7. By January 1, 1987, the department shall develop standards and priorities for determining whether a genetically handicapping condition should be eligible for services under the Genetically Handicapped Persons Program pursuant to Sections 341 and 341.5 of the Health and Safety Code.

   The department shall submit a report to the policy committees, the fiscal committees, and the Joint Legislative Budget Committee by February 1, 1987, which (1) contains the proposed standards and priorities; (2) determines whether including Von Hippel-Lindau's Syndrome as a genetically handicapping condition would be consistent with the proposed standards and priorities; and (3) estimates the cost of including Von Hippel-Lindau's Syndrome under the Genetically Handicapped Persons Program.

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9. The department shall implement the data system for the Medically Indigent Services (MIS) program by January 1, 1986, and shall make the collected data available by April 15, 1986. The department shall submit a report to the Legislature by January 1, 1986, on the status of the MIS data system and the department's ability to provide data to the Legislature by April 15, 1986. Of the funds appropriated in this item for deposit in the MIS Account, $100,000 shall be for transfer to Item 4260-001-001 and used to design and further develop a data collection system for the MIS program. The Department of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and to the chairperson of the fiscal committee of each house 30 days prior to expenditure of this amount.

10. To the extent savings are available from the County Health Services Fund, the director shall allocate the funds according to the following priorities:

(a) Public Health Emergencies ..	$315,000
(b) Distressed County Facilities (as defined in Section 16715 of the Welfare and Institutions Code)	$470,000
(c) Refugee Health Programs.....	$245,000
(d) Computerization of County Information Processing	$535,000
(f) County-Clinic Linkages	$130,000
(g) Elder Care Projects	$505,000

If the funding applications of local jurisdictions request fewer funds by category than the amounts set forth above, the director may reallocate funds from one category to another. However, in reallocating funds, the director shall first consider the need for additional funds in the categories in the order of the priorities listed above.

11. The $50 million increased appropriation for Medically Indigent Services from this account shall be distributed in pro rata shares, as determined in subdivision (d) of Section 16703 of the Welfare and Institutions Code, to counties other than counties contracting with the state pursuant to Section 16709 of the Welfare and Institutions Code, which apply for such funding to preserve or provide reasonable access to both inpatient hospital care and outpatient care.

Outpatient care includes reasonable access, as determined by the Department of Health Services, to physician's services through county outpatient clinics, nonprofit community outpatient clinics, or other arrangements, the Medi-Cal formulary of prescription drugs, and acute dental care. The department may withhold this funding for any county for which it makes a

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finding that the funding is not necessary to preserve or provide reasonable access to both inpatient hospital care and outpatient care. The department shall withhold approval if it makes a finding that the county will not be in compliance with state statutory requirements governing eligibility, advance payment of patient liability, or notices.

Unspent funding under this allocation for counties which do not apply for funding, or for which the department does not approve funding, shall be redistributed to the remaining counties using the pro rata formula in subdivision (d) of Section 16703 of the Welfare and Institutions Code.

4260-111-890—For local assistance, Department of Health Services, for transfer to the Public Health Federal Fund payable from the Federal Trust Fund 31,470,871

Schedule:

(a) 20-Community Health Services	30,885,871
(b) 25-County Health Services	585,000

Provisions:

1. Subdivisions (a) and (c) of Provision 2 of Item 4260-111-001 are also applicable to this item.
2. Of the federal Maternal and Child Health block grant fund, $5,400,001 shall be expended on Perinatal Improvement as follows:

For Perinatal Services	2,000,000
For High-Risk Infant Follow up ..	750,000
For Diabetes in Pregnancy.....	400,000
For Prematurity Prevention Projects.....	400,000
For Audit Withhold	100,000
For Outreach and Education.....	150,000
For Regional Perinatal System	500,000
For County/Community Perinatal Programs	1,100,000

No less than $500,000 of the funds from County/Community Perinatal Programs shall be spent by counties for outreach to providers as necessary for implementation of Chapter 1404 of the Statutes of 1984. No federal Maternal and Child Health funds shall be used by counties for implementation of administration of the Family Health Initiative.

4260-116-001—For cost-of-living increases, Department of Health Services, to be transferred to and in augmentation of Item 4260-111-001, upon approval of the Department of Finance, in accordance with the following schedule 36,326,000

Schedule:

(a) 11-Health Protection.....	144,000
(b) 20-Community Health Services....	3,161,000
(c) 25-County Health Services	32,700,000
(d) 40-Rural Health	321,000

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4260-301-036—For Capital Outlay, Department of Health Services, payable from the Special Account for Capital Outlay		312,000
Schedule:		
(1) 94.50.010-Minor Projects	48,000	
(2) 94.70.045-Berkeley: Additional Space and Renovation, Phase I—Study and Programming	50,000	
(3) 94.70.050-Berkeley: Autoclave Replacement, Phase VI	194,000	
(4) 94.71.005-Fairfield: Physical Facility Study	20,000	

4260-490—Reappropriation, Department of Health Services. Notwithstanding any other provisions of law, the unencumbered balances of the appropriations provided in the following citations are reappropriated, on the effective date of this act, for the purposes provided for in those appropriations, and shall be available for expenditure until June 30, 1986:

036—Special Account for Capital Outlay Item 4260-301-036, Budget Act of 1984:

(2) 94.70.040-Autoclave Replacement—Phases IV and V

(3) 94.80.010-Los Angeles Laboratory: Fire and Life Safety Modifications—Preliminary Plans, Working Drawings and Construction

4260-491—Reappropriation, Department of Health Services. Notwithstanding any other provision of law, the unencumbered balances as of June 30, 1985, of the following appropriations for transfer to the Local Health Capital Expenditure Account for local health capital improvements are reappropriated for transfer to the Local Health Capital Expenditure Account for local health capital improvements:

(1) Item 4260-111-001(f)(1), Budget Act of 1981 as reappropriated by Item 4260-491, Budget Act of 1984.

(2) Item 4260-111-001(c), Budget Act of 1982.

(3) Item 4260-111-001(d), Budget of 1983.

(4) Item 4260-111-001(d), Budget Act of 1984.

Provisions:

1. Of the funds appropriated by this item, $50,000 shall be used to fund a position for the administration of the Local Health Capital Program.

4260-492—Reappropriation, Department of Health Services. Notwithstanding any other provision of law, the unencumbered balances as of June 30, 1985, of the following appropriations are hereby reappropriated for the purposes specified:

001—General Fund

(2) For the ACLAIMS project, $490,700 of the amount appropriated in Item 4260-001-001 for this purpose in the Budget Act of 1984.

203—Genetic Disease Testing Fund

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(1) For the Neural Tube Defect Program, $883,000 of the amount appropriated in Item 4260-001-203 for this purpose in the Budget Act of 1984.		
890—Federal Funds		
(1) For the ACLAIMS project, $574,300 of the amount appropriated in Item 4260-001-890 for this purpose in the Budget Act of 1984.		
(3) For the Medically Indigent Services Program data system, $1,150,000 of the amount appropriated in Item 4260-111-001 for this purpose in the Budget Act of 1984.		
4260-495—Reversion, Department of Health Services. As of June 30, 1985, the unencumbered balance of the appropriation provided in the following citation shall revert to the unappropriated surplus of the General Fund.		
001—General Fund		
(1) Section 2, Chapter 1572, Statutes of 1984, Medi-Cal 24-Hour Toll-Free Phone Line	$135,000	
4270-001-001—For support, California Medical Assistance Commission		954,000
Schedule:		
(a) 100000-Personal Services	1,248,000	
(b) 300000-Operating Expenses and Equipment	519,000	
(c) Reimbursements	−813,000	
4270-490—Reappropriation, California Medical Assistance Commission. Notwithstanding any other provision of law, the amount reverted in Item 0630-495 is hereby reappropriated for transfer to, and in augmentation of, Item 4270-001-001 for the purpose of establishing a pilot capitated health program to provide educational and technical assistance to disproportionate health provider physicians.		
4300-001-001—For support of Department of Developmental Services		17,447,000
Schedule:		
(a) 10-Community Services Program	9,123,000	
(b) 20-State Hospital Services Program	9,741,000	
(c) 35.01-Administration	15,110,000	
(d) 35.02-Distributed Administration	−15,110,000	
(e) Reimbursements	−1,140,000	
(f) Amount payable from the Developmental Disabilities Program Development Fund (Item 4300-001-172)	−199,000	
(g) Amount payable from the Federal Trust Fund (Item 4300-001-890)	−78,000	
Provisions:		
1. Under order of the Director of Finance, the State Controller shall transfer funds as are necessary between this item and Item 4300-101-001 to provide for the continuing costs of fair hearings.		

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2. Upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4300-111-001 to provide for the continuing costs of centralizing the State Hospital accounting function.

4300-001-172—For support of Department of Developmental Services, for transfer to Item 4300-001-001, payable from the Developmental Disabilities Program Development Fund 199,000

4300-001-890—For support of Department of Developmental Services, for transfer to Item 4300-001-001, payable from the Federal Trust Fund..... 78,000

Provisions:

1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4300-111-890.

4300-101-001—For local assistance, Department of Developmental Services, for Regional Centers..... 333,132,000

Schedule:

(a) 10.10.010-Operations 92,795,000
  (1) 10.10.010.010-Personal Services 75,000,000
  (2) 10.10.010.020-Operating Expense and Equipment 17,795,000
(b) 10.10.020-Purchase of services 227,664,000
  (1) 10.10.020.010-Out-of-Home Care..... 87,678,000
  (2) 10.10.020.020-Day Programs 51,614,000
  (3) 10.10.020.050-Other Services 88,372,000
(c) Special Adjustment Cost-of-living adjustment..... 12,673,000

Provisions:

1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item, and Item 4300-111-001 and Item 4300-121-001. Provided further, that the Department of Finance may authorize the transfer of funds from this item to the Health Care Deposit Fund for the state's share of expenditures for developmental services provided to persons eligible under the California Medical Assistance Program.
2. Notwithstanding any other provision of law, the Department of Developmental Services shall not allocate, reallocate, or transfer funds to any regional centers for the purpose of cost-of-living adjustments in excess of that provided for by the Budget Act for this item. Any cost-of-living increase granted for personal and nonpersonal services which exceeds the percentage increase authorized by this item or any other salary ad-

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justments provided by the regional centers shall be funded within the allocation pursuant to the Budget Act.

3. (a) In order to ensure that services to eligible clients are available throughout the contract period, it is the intent of the Legislature in enacting this provision that each regional center administer the contract within the level of funding available pursuant to Sections 4621 and 4633 of the Welfare and Institutions Code and this act. If additional funds are appropriated by the Legislature, the Department of Developmental Services shall revise the contract amounts. The regional centers shall then administer the contracts within the revised contract amounts.

To carry out the intent of this provision, each regional center contract shall include provisions which ensure the regional center will provide services to eligible clients within the funds available in the contract throughout the contract term. If the regional center or the Director of Developmental Services determines that there are insufficient funds in a regional center contract for the provision of client services, the regional center shall continue to administer the contract within the funds provided and report to the director of the Department of Developmental Services on the type, amount, and costs of client services which cannot be provided directly or through purchase because of insufficiency of funds. The director of the department shall use these data in preparing reports pursuant to subdivision (c) of Section 4631 and Section 4779 of the Welfare and Institutions Code, and subdivision (b) of this provision.

The regional center shall develop a written plan which specifies how the center intends to address the funding deficiency. If at any time the director of the department determines that a regional center's plan does not adequately address the funding deficiency during the contract period, the director may require the use of operational funds to reduce the deficiency in purchase of services.

(b) The Director of Developmental Services shall report on the financial status of all regional centers and their operations to the Joint Legislative Budget Committee by November 15, 1985, February 15, 1986, and May 15, 1986. The report shall:

(1) Identify all projections of regional center budget deficits during the quarter.

(2) Analyze the accuracy of each identified

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deficit projection.

(3) Analyze the feasibility of eliminating the projected deficits by reductions in expenditures, reallocations of appropriated funds, and budget augmentation.

(4) Indicate the actions planned to eliminate the projected deficits, including a description of the impact of such actions on the receipt of services needed by regional center clients during the remainder of the fiscal year.

4. The Department of Developmental Services shall report to the Legislature, no later than March 15, 1986, on the planning assumptions on which the capitation methodology is based, and on the extent to which the capitation methodology used in allocating funds under Program 10.10.020.050 "Other Services" permits the regional centers to implement the provisions of Section 4685 of the Welfare and Institutions Code.

5. If the Department of Health Services application for extension of the Medicaid waiver for home- and community-based services for the developmentally disabled is not approved, the Department of Developmental Services shall not expend $996,000 budgeted for positions associated with the Medicaid waiver.

6. The department shall allow regional centers to utilize up to $103,592,000 from the Supplemental Security Income/State Supplementary Payment (SSI/SSP) program for residential care services. Any funds available from SSI/SSP exceeding this amount may be used to increase rates for residential care providers. Any funds not used for this purpose shall be used to offset the General Fund cost of residential care services.

7. The Department of Developmental Services shall conduct a demonstration project to test the adequacy and accuracy of the concepts contained in the department's Residential Care Rate Proposal for 1985–86. The department shall conduct projects in at least three regional centers for a minimum of six months. Participation by the regional centers shall be voluntary. The regional centers that participate shall represent the northern, central, and southern parts of the state. The proposed rate structure tested in the demonstration projects shall apply to all of the participating regional centers' clients who reside in community care facilities.

The projects shall examine each of the following: (a) the validity of the department's Client Development Evaluation Report in assessing client need for supervision, care, and training for

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rate-setting purposes; (b) the adequacy of the department's direct care staffing model; (c) the adequacy of the revised rate in reimbursing allowable facility costs; and (d) the manner in which the revised rate should be coordinated with departmental efforts to assure quality in residential care facilities. Any adjustment for cost-of-living under category (c) shall also be applied to the demonstration projects for the purpose of addressing these items.

Based on the results of these projects, the department shall update its revised residential care proposal and submit it to the Legislature by April 1, 1986.

8. The department shall ensure that regional centers make available to hospitals written information for parents on services available for developmentally disabled infants.

4300-111-001—For local assistance, Department of Developmental Services, for State Hospitals 378,845,000

Schedule:

(a) 20-State Hospital Services Program	501,143,813
(b) Special Adjustment—Cost-of-Living Adjustment	175,000
(c) Reimbursements	−118,771,813
(d) Amount payable from the Federal Trust Fund (Item 4300-111-890) ..	−895,000
(e) Amount payable from the Special Account for Capital Outlay (Item 4300-111-036)	−2,807,000

Provisions:

1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Items 4300-101-001, 4300-121-001, 4440-011-001, and 4440-101-001.
2. Upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4300-001-001 to provide for the continuing costs of centralizing the State Hospital accounting function.
3. The department or individual state hospitals may enter into contracts with the Prison Industries Authority for laundry services, providing that the contracts provide that the department will not be charged a rate per pound which exceeds: (1) available commercial laundry rates for the same laundry service or (2) Prison Industries Authority's cost for operating a laundry plus its standard central administrative charge and a net 11.7 percent profit on direct operations costs.

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4. Of the amount appropriated in Schedule (a), $149,000 is for the removal and replacement of leaking PCB transformers located in state hospitals. The department shall contract with the Department of General Services for the removal of the leaking PCB transformers on condition that the transformers can be removed by March 1, 1986.		
4300-111-036—For local assistance, Department of Developmental Services, for transfer to Item 4300-111-101, payable from the Special Account for Capital Outlay		2,807,000
4300-111-890—For local assistance, Department of Developmental Services, for transfer to Item 4300-111-001, payable from the Federal Trust Fund		895,000
Provisions:		
1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4300-001-890.		
4300-121-001—For local assistance, Department of Developmental Services		6,766,000
Schedule:		
(a) 10.20.010-Program Development	2,952,000	
(b) 10.20.025-Community Placement	5,020,000	
(c) 10.20.030-Cultural Center for the Handicapped	139,000	
(d) 10.20.040-Prevention	2,370,000	
(e) Special Adjustment Cost-of-Living Adjustment	237,000	
(f) Reimbursements	−1,324,000	
(g) Amount payable from the Developmental Disabilities Program Development Fund (Item 4300-121-172)	−2,628,000	
Provisions:		
1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item, Item 4300-101-001 and Item 4300-111-001.		
2. Funds appropriated in category (e) for cost-of-living increases are to be allocated to category (b) Cultural Center for the Handicapped.		
4300-121-172—For local assistance, Department of Developmental Services, for transfer to Item 4300-121-001, payable from the Developmental Disabilities Program Development Fund		2,628,000
Provisions:		
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the Department of Developmental Services in excess of the amount appropriated, no sooner than 30 days after notification in writing of the chairperson of the fiscal committees and the Chairperson of the Joint Legislative Budget		

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Committee, or no sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.		
4300-301-036—For Capital Outlay, Department of Developmental Services, payable from the Special Account for Capital Outlay		13,047,000
Schedule:		
(1) 55.10.010 Minor Projects	2,041,000	
(2) 55.15.065-Agnews: Replace West Facility Boilers—Preliminary Plans	25,000	
(4) 55.20.220-Camarillo: Swing Space —Preliminary Plans and Working Drawings	42,000	
(5) 55.20.225-Camarillo: Fire and Life Safety and Environmental Improvements, Units 11, 12, 14 and 13, 15—Preliminary Plans	224,000	
(6) 55.20.230-Camarillo: Upgrade and Replace Steamplant Boilers—Preliminary Plans	25,000	
(7) 55.25.210-Fairview: Upgrade 5KV Distribution System—Complete Working Drawings and Construction	320,000	
(8) 55.25.215-Fairview: Install New Water Distribution System—Study	45,000	
(9) 55.30.205-Lanterman: Install Additional Chiller and Connect Acute Hospital—Working Drawings and Construction	429,000	
(10) 55.40.215-Napa: Fire and Life Safety and Environmental Improvements, Building 196—Complete Preliminary Plans, Working Drawings and Construction	6,700,000	
(11) 55.40.220-Napa: Fire and Life Safety and Environmental Improvements, Building 195—Preliminary Plans and Working Drawings	348,000	
(12) 55.40.225-Napa: Fire Detection System, Phase II, Buildings 136, 139, 143, 145, 167, 174 and 258—Preliminary Plans and Working Drawings	50,000	
(13) 55.60.210-Stockton: Fire and Life Safety and Environmental Improvements, Cottage G—Complete Preliminary Plans, Working Drawings and Construction	2,798,000	

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Provisions:

1. The fire and life safety and environmental improvements for Napa Building 196 are of high priority, and the Office of the State Architect shall undertake the project and expedite construction.
2. In the event that the funds budgeted for preliminary plans and working drawings for the Napa Fire Detection System, Phase II, are inadequate for both purposes, the department shall expend the funds for preliminary plans.

4300-490—Reappropriation, Department of Developmental Services. Notwithstanding any other provisions of law, the unencumbered balances of the appropriations provided in the following citations are reappropriated, on the effective date of this act, for the purposes provided for in those appropriations and any additional purposes provided for in this item, and shall be available for expenditure until June 30, 1986:

036—Special Account for Capital Outlay

1. Item 4300-301-036 of the Budget Act of 1984:
   (3) 55.20.210-Camarillo: Fire and Life Safety and Environmental Improvements, Children's Unit—Study and Preliminary Plans
   (7) 55.55.205.841-Sonoma: Upgrade Fredrickson for Central Supply Services—Preliminary Plans, Working Drawings and Construction
   (7.1) 55.55.205.842-Sonoma: Upgrade Fredrickson for Central Supply Equipment
   (8) 55.25.205-Fairview: Replace No. 3 Centrifugal Chiller—Preliminary Plans, Working Drawings and Construction
   (11) 55.20.215-Camarillo: Handicapped Accessibility, Phase 2—Preliminary Plans, Working Drawings and Construction
   (11.1) 55.30.210-Lanterman: Handicapped Accessibility, Phase 2—Preliminary Plans, Working Drawings and Construction
   (11.2) 55.55.210-Sonoma: Handicapped Accessibility, Phase 2—Preliminary Plans, Working Drawings and Construction
   (11.3) 55.60.205-Stockton: Handicapped Accessibility, Phase 2—Preliminary Plans, Working Drawings and Construction
   (15) 55.10.010-Minor Projects

4300-491—Reappropriation, Department of Developmental Services. Notwithstanding any other provision of law, up to $1,439,000 appropriated in Item 4300-101-001 of the Budget Act of 1984 for community placement activities is hereby reappropriated for the same purpose.

4300-495—Reversion, Department of Developmental Services. As of June 30, 1985 the unencumbered balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the fund from which the appropriation was made:

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001-General Fund		
(1) Chapter 569, Statutes of 1980, for Local Assistance—Department of Developmental Services, for development of a small intermediate care facility/developmentally disabled habilitative.		
4440-001-001—For support of Department of Mental Health		19,206,000
(a) 10-Community Services	14,082,000	
(b) 20-State Hospital Services	5,899,000	
(c) 35.01-Departmental Administration	17,584,000	
(d) 35.02-Distributed Departmental Administration	−17,059,000	
(e) Reimbursements	−717,000	
(f) Amount payable from the Federal Trust Fund (Item 4440-001-890)	−583,000	
Provisions:		
1. Certain counties have not assumed the administrative, fiscal, and program responsibilities for mental health social services programs as required by Chapter 1330, Statutes of 1984. It is the intent of this proviso to enable the transfer of state employees to county employment in such a way that personnel benefits are protected. Upon order of the Department of Finance, the State Controller shall transfer between this item and Item 4440-101-001 such funds as are necessary to enable the transfer of state employees to county employment in such a way that personnel benefits are protected.		
2. Of the amount appropriated in category (c), $500,000 shall be expended as follows: $100,000 for contractual services to promote the development of self-help groups and $400,000 to support the costs of developing a youth suicide prevention program.		
4440-001-890—For support of Department of Mental Health, for transfer to Item 4440-001-001, payable from the Federal Trust Fund		583,000
4440-011-001—For support of the State Hospitals, Department of Mental Health		96,190,000
Schedule:		
(a) 20.20-Penal Code and Judicially Committed	96,190,000	
(b) 20.30-Other State Hospital Services	20,284,000	
(c) Reimbursements	−20,284,000	
Provisions:		
1. The amounts appropriated above are for support of the hospitals for the mentally ill for judicially committed patients and patients committed pursuant to the Penal Code.		

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2. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Items 4200-101-001, 4300-111-001, 4440-121-001, 5240-001-001, and 5460-001-001.
3. The department may transfer up to $300,000 to Item 4440-016-001 for expansion of aftercare programs for Penal Code patients released from state hospitals. Additional aftercare program slots may be funded only if they will result in the placement of otherwise release-ready Penal Code clients and if the 1985–86 staff savings in the state hospitals from reduced population will fully offset the cost of expansion of the aftercare program.
4. The department shall install a pilot automated system for monitoring the delivery of treatment services. By July 15, 1985, the department shall have submitted and received approval for a Feasibility Study Report for the automated monitoring system and related equipment acquisition.

   By November 15, 1985, the department shall submit to the Legislative Analyst and the chairperson of the fiscal committee of each house a project status report and an initial plan for systems implementation in the other program selected for Planned Scheduled Treatment staffing augmentation. By April 15, 1986, the department shall submit a report of the overall pilot study findings and a final plan for extending the system of monitoring treatment services to all programs serving mentally ill patients in state hospitals.

4440-016-001—For support, Department of Mental Health, 10-Community Services 4,293,000

Provision:

1. The funds in this item shall be used to provide community services as provided in Section 5709.8 of the Welfare and Institutions Code. These funds shall support direct community services, as well as administrative and ancillary services related to the provision of direct services.
2. The department shall spend up to $500,000 to support a pilot project in Los Angeles County designed to evaluate the effectiveness of providing intensive after-care and supervision services to up to 100 state prison mentally disordered parolees. The Departments of Mental Health and Corrections shall develop a research protocol which provides for random selection of the parolees and implements the research projects no later than January 1, 1986.

4440-101-001—For local assistance, Department of Mental Health..... 494,556,000

Schedule:

(a) 10.15-Community Residential Treatment System..... 15,800,000

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(b)	10.25-Community Services—other treatment	535,783,000
(c)	10.35-Primary Prevention Projects	268,000
(d)	Reimbursements	−41,155,000
(e)	Amount payable from the Federal Trust Fund (Item 4440-101-890)	−16,140,000

Provisions:

1. The amounts appropriated in this item are for assistance to local agencies in the establishment and operation of mental health services, in accordance with the provisions of Division 5 (commencing with Section 5000) of the Welfare and Institutions Code, Department of Mental Health, and in addition, any amounts transferred from the Health Care Deposit Fund shall augment and be available for expenditure for the purposes specified above.
2. The Department of Finance may authorize the transfer of funds from this item to the Health Care Deposit Fund for the state's share of expenditures for mental health services provided to patients eligible under the California Medical Assistance Program.
3. Upon order of the Department of Finance, the Controller shall transfer between this item and Item 4440-121-001 those funds which are necessary to provide for overuse of allocated state hospital days. Other transfers between this item and Item 4440-121-001 may be made not 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 not sooner than such lesser time as the chairperson of the committee, or his/her designee, may in each instance determine.
4. County Short-Doyle planning estimates, allocations or reallocations to counties shall be approved by the Department of Finance and certified by the Department of Mental Health as to the source and availability of funds, and that such action would not create a deficiency.
5. The department shall make semiannual and annual adjustments to local mental health services allocations to the extent that the department's projections indicate that a county will use more state hospital days than the department has allocated to it. The department may authorize counties to establish agreements pooling state hospital days, but shall make semi-annual and annual adjustments to their allocations if the department's projections indicate that the counties' state hospital use will exceed their combined total.

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6. The department shall not transfer funds appropriated for community residential treatment system to the community services category or to any other item of the Budget Act.
7. In the event that the amount appropriated by this item is less than appropriations for fiscal year 1984–85 or funds in addition to the appropriation in this act become available in 1985–86, the department shall increase or decrease county allocations by utilizing the poverty/population model in order to reduce funding inequities among counties.
8. Certain counties have not assumed the administrative, fiscal, and program responsibilities for mental health social services programs as required by Chapter 1330, Statutes of 1984. It is the intent of this proviso to enable the transfer of state employees to county employment in such a way that personnel benefits are protected. Upon order of the Department of Finance, the State Controller shall transfer between this item and Item 4440-001-001 such funds as are necessary to enable the transfer of state employees to county employment in such a way that personnel benefits are protected.
9. The department shall approve county plans for expenditure of the $40 million in new funds based upon whether the specific services proposed will enhance the development of a balanced continuum of treatment choices and alternative levels of care, such as community residential treatment systems, in that county.
10. Any proposals for expenditure of the $40 million in new funds on acute inpatient treatment for children and adolescents shall be approved only if the county has adopted a procedure which has been approved by the department for protecting the legal rights of those minors consistent with the decision in the case of Roger S.
11. That portion of the $40,000,000 in new funds appropriated by this item for mental health programs in counties with a population of 3 million or above shall be allocated to these counties only in accordance with all of the following provisions:
    (a) The Departments of Mental Health and Finance shall determine that these funds shall be utilized in accordance with the index of relative need formulas in use in the county during the previous program year before county plans are approved.
    (b) The funds shall be utilized to develop, insofar as possible, a balanced service system in each portion of the county or in each mental health region of that county if it is so divided.

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(c) The determination of regional equity and balance shall be made on the basis of full-year costs for each program funded by the funds in the county plan.

(d) The Department of Mental Health shall report to the Legislature by March 1, 1986, as to the actual use of these funds in affected counties and as to revisions in the base budgets of these counties.

12. department shall allocate $40 million from funds appropriated by this item to improve the equitable distribution of resources between counties. The department shall allocate the $40 million to counties using the same data base, populations, and poverty/population model methodology as that used to develop the 1985–86 planning estimates.

13. $1,000,000 of the funds appropriated by this item shall be available for Acquired Immune Deficiency Syndrome (AIDS) mental health services as follows:

(a) The department shall spend $1,000,000 on programs addressing the mental health needs associated with AIDS;

(b) The funds shall be allocated as follows: $500,000 to San Francisco County, $335,000 to Los Angeles County, and $165,000 for other counties;

(c) The director is authorized to reallocate funds among counties for treatment associated with AIDS if a county cannot efficiently and effectively spend the funds initially allocated for AIDS treatment.

(e) The director is authorized to allocate the $165,000 for other counties based on his assessment of needs; and

(f) The department shall include language in the request-for-proposal which authorizes grantees to accept donations from those receiving services.

14. $48,000,000 of the funds appropriated by this item shall be identified as a Targeted Supplemental Fund directed towards rebuilding the state's commitment to provide specific funding for mental health treatment and support services in the following manner:

(a) $20,000,000 for chronically mentally disabled adults who are homeless or at risk of becoming homeless. These services shall include basic living support services as well as alternatives to inappropriate placement in the criminal justice system.

(b) $18,000,000 for seriously emotionally disturbed children and their families. These services should include treatment for juvenile sex offenders and juvenile victims of sex offenses. The development of locally coordinated systems among the public

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agencies serving seriously emotionally disturbed children and their families shall be encouraged whenever possible.

(c) $10,000,000 for increasing the state's Short-Doyle allocations to those counties based on the "poverty/population model" currently used by the department to determine equity allocations.

15. Of the funds appropriated by this item, $11.3 million shall be used to implement and test a residential rate payment system for mentally disordered clients. The State Department of Mental Health shall promulgate such regulations as are necessary to implement the provisions of Section 4075 of the Welfare and Institutions Code by October 1, 1985. The director of the department shall adopt all 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 Procedures Act, the adoption of the regulations shall be deemed to be an emergency and 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 review and 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.

16. By October 1, 1985, the department shall issue emergency regulations establishing the framework for the residential care rate supplement program. The department shall not implement the program until the regulations are issued. The emergency regulations shall specify:
    (a) Minimum requirements for uniform assessment and selection of facilities for participation.
    (b) An evaluation tool to be used to uniformly determine how clients will be categorized as basic, level I, or level II clients.
    (c) Minimum requirements for services to be purchased.
    (d) A method to verify that contracted services have been provided.
    (e) A minimum training program for facility operators.
    (f) Minimum requirements for county/provider contracts.
    (g) A claiming procedure for residential care facilities to use in billing the county mental health program.

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(h) A procedure for counties to follow in paying facility operators and reporting expenditures to the department.
(i) A policy regarding county authority to negotiate rates within established maximum rates.
(j) Guidelines specifying county staffing obligations and administrative responsibilities, and procedures to be followed by counties in claiming administrative expenses.
(k) Procedures to insure that the program is operated within the available appropriation.
(*l*) Policy requiring county matching requirements and state reimbursement of mandated local costs.
(m) Policy that will be followed with respect to rate changes if rates for developmentally disabled clients are increased in the 1985–86 fiscal year.

17. $500,000 of the funds appropriated by this item shall be used by the department to contract with a nonprofit organization with expertise in peer counseling to (1) provide training to county mental health programs on the design and implementation of peer counseling programs, and (2) provide technical assistance to counties as they implement peer counseling programs. The purpose of the training is to train county staff to train senior volunteer counselors who would then counsel senior citizens with mental health problems.

4440-101-890—For support of Department of Mental Health, for transfer to Item 4440-101-001, payable from the Federal Trust Fund 16,140,000

Provisions:

1. The amounts appropriated in this item are for assistance to local agencies in the establishment and operation of mental health services, in accordance with the provisions of Division 5 (commencing with Section 5000) of the Welfare and Institutions Code. In addition, any amounts transferred from the Health Care Deposit Fund shall augment and be available for expenditure for these purposes.
2. The Department of Finance may authorize the transfer of funds from this item to the Health Care Deposit Fund for the state's share of expenditures for mental health services provided to patients eligible under the California Medical Assistance Program.
3. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4200-101-890.

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4. County Short-Doyle planning estimates, allocations or reallocations to counties shall be approved by the Department of Finance and certified by the Department of Mental Health as to the source and availability of funds, and that such action would not create a deficiency.
5. The Department of Mental Health may authorize advance payments of federal ADAMH block grant funds on a monthly basis to the counties for grantees. Such advance payments may not exceed one-twelfth of the individual grant award for 1985–86. No General Fund money may be used in making grant awards under the provisions the federal ADAMH block grant.
6. The least possible amount of block grant funds shall be utilized for purposes of administration at both the state, local and direct provider levels. The department's administrative expenditures shall not exceed 10 percent of any block grant.

4440-121-001—For local assistance, Department of Mental Health, 20.10—Lanterman-Petris-Short Act 159,876,000

Provisions:

1. Upon order of the Director of Finance, the State Controller shall transfer funds as are necessary between this item and Items 4300-111-001, 4440-011-001, and 4440-101-001 for overuse of state hospital days. Other transfers of funds between this item and Item 4440-101-001 shall not be made 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 not sooner than such lesser time as the chairperson of the committee, or his/her designee, may in each instance determine.
2. The department shall install a pilot automated system for monitoring the delivery of treatment services. By July 15, 1985, the department shall have submitted and received approval for a Feasibility Study Report for the automated monitoring system and related equipment acquisition.

   By November 15, 1985, the department shall submit to the Legislative Analyst and the chairperson of the fiscal committee of each house a project status report and an initial plan for systems implementation in the other programs selected for Planned Scheduled Treatment staffing augmentation. By April 15, 1986, the department shall submit a report of the overall Pilot Study findings and a final plan for extending the system of monitoring treatment services to all programs serving mentally ill patients in state hospitals.

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3. The department shall not reduce the county allocation of state hospital beds below the currently authorized level of 2,543 beds in fiscal year 1985–86. The department shall, however, inform the chairperson of the fiscal committee of each house of the Legislature by January 10, 1986, of the estimated 1986–87 impact on state hospitals and of county efforts to establish additional community program beds to reduce the need for state hospital services. The department may, in fiscal year 1985–86, make quarterly staffing adjustments in response to fluctuations of county-admitted state hospital clients.		
4440-121-036—For local assistance, Department of Mental Health, Program 20		715,000
4440-301-036—For Capital Outlay, Department of Mental Health, payable from the Special Account for Capital Outlay		25,101,000
Schedule:		
(1) 55.10.205—Minor Projects	951,000	
(2) 55.18.140—Atascadero: Office Buildings—Preliminary Plans	200,000	
(3) 55.18.205—Atascadero: Heating and Air Conditioning Patient Occupied Buildings—Complete Working Drawings and Construction	10,559,000	
(4) 55.35.205—Metropolitan, CTW Building: Fire and Life Safety and Environment Improvements—Construction	8,356,000	
(5) 55.35.210—Metropolitan: Upgrade Electrical Distribution System—Construction	1,905,000	
(6) 55.35.215—Metropolitan: Fire and Life Safety and Environmental Improvements, R&T Building—Working Drawings	120,000	
(7) 55.45.215—Patton: Fire and Life Safety and Environmental Improvements, U Building—Complete Preliminary Plans, Working Drawings and Construction	2,405,000	
(8) 55.45.220—Patton: Fire and Life Safety, Environmental Improvements and Enclose Porches, N Building—Preliminary Plans and Working Drawings	405,000	
(9) 55.35.220—Metropolitan: Remodel Laundry—Preliminary Plans	200,000	
Provisions:		
1. The fire and life safety and environmental improvements for the Metropolitan R and T Building are of high priority, and the Office of the State Architect shall undertake the project and shall expedite completion.		

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2. The funds in categories (7) and (8) shall not be available for expenditure sooner than 30 days following submission of the following information to the Chairperson of the Joint Legislative Budget Committee and chairperson of the committee in each house which considers appropriations: (a) a report on the staffing and security implications at Patton State Hospital of providing environmental improvements for the U and N Buildings; and (b) cost estimates, outline specifications, schematic drawings, and project schedules for the U and N Buildings fire and life safety and environmental improvement remodeling projects.

4440-490—Reappropriation, Department of Mental Health. Notwithstanding any other provisions of law, the unencumbered balances of the appropriations provided in the following citations are reappropriated on the effective date of this act, for the purposes provided for in those appropriations and any additional purposes provided for in this item, and shall be available for expenditure until June 30, 1986.

036—Special Account for Capital Outlay Item 4440-301-036, Budget Act of 1984:

(1) 55.35.205—Metropolitan, CTW Building: Fire and Life Safety and Environmental Improvements and Refrigerated Air Conditioning—Preliminary Plans and Working Drawings

(2) 55.35.210—Metropolitan: Upgrade Electrical Distribution System—Preliminary Plans and Working Drawings

(5) 55.45.210—Patton: Emergency Electrical Power, Phase 2—Preliminary Plans, Working Drawings and Construction.

(9) 55.10.010—Minor Projects

Provisions:

1. The funds reappropriated under this item for Fire and Life Safety and Environmental Improvements, CTW Building, Metropolitan State Hospital, Budget Act of 1984, shall be sufficient to complete preliminary plans and working drawings for the project. The State Public Works Board shall not approve any augmentation for additional architectural and engineering services for preliminary plans and working drawings for this project.

4440-491—Reappropriation, Department of Mental Health. Notwithstanding any other provision of law and upon order of the Department of Finance, the unencumbered balance of Item 4440-101-001, Budget Act of 1984, as of June 30, 1985, is reappropriated for transfer to and in augmentation of Item 4440-001-001, Budget Act of 1985, for mental health research purposes; the total amount transferred to Item 4440-001-001 shall not exceed $1,000,000.

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5100-001-001—For support of Employment Development Department, for transfer to Item 5100-001-870	33,259,000

Provisions:

1. Up to $420,000 of the funds appropriated in this item shall be provided as reimbursements to Item 8940-001-001 for the California Innovative Military Projects and Career Training (IMPACT) Program, except that these funds shall not be provided to the Military Department as reimbursements and shall be available to the Employment Development Department for expenditure for the Employment Preparation Program to the extent that the Military Department receives from local agencies funds to offset costs scheduled in Item 8940-001-001.

5100-001-184—For support of Employment Development Department, for transfer to Item 5100-001-870, payable from the Employment Development Department Benefit Audit Fund 2,439,000

Provisions:

1. The Employment Development Department (EDD) may spend a total of $3,750,000 for benefit fraud activities from the Benefit Audit Fund and the EDD Contingent Fund. In the event that revenues accruing to the Benefit Audit Fund exceed the budgeted level, the excess is hereby appropriated to the Director of Finance, to be used to augment this item, for expenditure on benefit fraud activities, on order of the Director of Finance.

5100-001-185—For support of Employment Development Department, for transfer to Item 5100-001-870, payable from the Employment Development Contingent Fund 21,657,785

Provisions:

1. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated for administration pursuant to Section 1586 of the Unemployment Insurance Code.
2. Notwithstanding the provisions of Item 9840-001-494, the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item.
3. Notwithstanding any other provision of law, the State Controller shall transfer to the General Fund the unencumbered balance in the Employment Development Contingent Fund as of June 30, 1986, which is in excess of the $1,000,000 reserve required by Section 1590 of the Unemployment Insurance Code.

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4. The Employment Development Department is prohibited from spending funds appropriated by this item for automating the statewide payment system in the Unemployment Insurance program until the State Office of Information Technology submits to the chairperson of the fiscal committee in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee a written explanation of the reasons for its approval of the Feasibility Study Report on the automation of the statewide Unemployment Insurance Payment System.
5. No funds shall be expended from this item for automation of disability insurance activities until 30 days after the department submits to the Legislature a report which shall include, but not be limited to, the following:
   (a) The cost of the projects, as of July 1, 1985, and the areas in the state already automated.
   (b) The remaining cost of the projects, the areas to be automated, and the projected cost/sources of funding.
   (c) An assessment of the cost effectiveness of the completed portions of the projects as compared to the anticipated cost effectiveness of these portions as described in the relevant feasibility study reports.
6. Of the funds appropriated by this item, $2,606,000 shall be available to the department for additional operating expense and equipment expenditures upon the submission of a report to the Legislature that describes the need and existing support level for operating expenses and equipment expenditures in 1985–86. The report shall include a detailed schedule indicating how the department calculates its requirements for various types of expenses and equipment and a schedule assessing the sources of funds available to meet the revised level of need. In addition, the report shall also describe: (1) the way in which the department will revise its internal budgeting processes in order to accurately identify the future operating expense needs of each program; (2) the way in which relatively fixed costs such as rent, will be allocated among the programs; and (3) the way in which the department's future space needs as determined by the required assessment of central office and field office space needs will affect its need for additional state funds. This report shall be submitted to the Legislature by October 1, 1985.

5100-001-514—For support of Employment Development Department, for transfer to Item 5100-001-870 payable from the Employment Training Fund 60,489,000

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Provisions:

1. Notwithstanding Section 2 of this act, any unexpended balance in the Employment Training Fund as of June 30, 1985 is hereby appropriated for transfer to and in augmentation of this item, for allocation by the Employment Training Panel for job training contracts and shall not be reverted to the Unemployment Insurance Fund.
2. All activities to market, negotiate, or otherwise locate employers or other agencies interested in providing training with funds supplied by the Employment Training Panel shall be supported with funds allocated for the administration of the Employment Training Panel.

5100-001-588—For support of Employment Development Department, for transfer to Item 5100-001-870, payable from the Unemployment Compensation Disability Fund 56,093,485

Provisions:

1. The Department of Employment Development shall submit on October 1 and April 20, to the Department of Finance for its review and approval, an estimate of expenditures for both the current and budget years, including the assumptions and calculations underlying EDD projections for support expenditures from this item. The Department of Finance shall approve, or modify, the assumptions underlying all estimates within 15 working days of their receipt. If the Department of Finance does not approve or modify in writing, the assumptions underlying all estimates within 15 working days of receipt, the Employment Development Department shall consider the assumptions and calculations approved as submitted. If the Department of Finance determines that the estimate of support expenditures differs from the amount appropriated by this item, the Director of Finance shall so report to the Legislature. At the time the report is made, the amount of this appropriation shall be adjusted by the difference between this Budget Act appropriation and the DOF approved estimate. This item is not subject to the provisions of Section 28.00.
2. Of the funds appropriated by this item, $1,766,000 shall be available to the department for additional operating expense and equipment expenditures upon the submission of a report to the Legislature that describes the need and existing support level for operating expenses and equipment expenditures in 1985–86. The report shall include a detailed schedule indicating how the department calculates its requirements for various types of expenses and equipment and a schedule assessing the sources of funds available to meet the revised level of need. In addition,

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the report shall also describe: (1) the manner in which the department will revise its internal budgeting processes in order to accurately identify the future operating expense needs of each program; (2) the manner in which relatively fixed costs, such as rent, will be allocated among the programs; and (3) the manner in which the department's future space needs, as determined by the required assessment of central office and field office space needs, will affect its need for additional state funds. This report shall be submitted by October 1, 1985.

3. The department may delete from its budget up to 35 positions from the Disability Insurance Program in order to reflect the efficiencies created by automation of the checkwriting function. These positions may be deleted 30 days after notification to the Joint Legislative Budget Committee.
4. No funds shall be expended from this item for automation of disability insurance activities until 30 days after the department submits to the Legislature a report which shall include, but not be limited to, the following:
   (a) The cost of the projects, as of July 1, 1985, and the areas in the state already automated.
   (b) The remaining cost of the projects, the areas to be automated, and the projected cost/sources of funding.
   (c) An assessment of the cost effectiveness of the completed portions of the projects as compared to the anticipated cost effectiveness of these portions as described in the relevant feasibility study reports.

5100-001-870—For support of Employment Development Department, payable from the Unemployment Administration Fund—Federal 295,594,213

Schedule:

(a) 10-Employment and Employment Related Services	166,708,201
(b) 20-Tax Collection and Benefit Payments	284,827,623
(c) 30.01-General Administration	32,468,000
(d) 30.02-Distributed General Administration	−29,955,000
(e) 50-Employment Training Panel	58,867,000
(f) Reimbursements	−42,578,341
(g) Amount payable from the General Fund (Item 5100-001-001)	−33,259,000
(h) Amount payable from the Employment Development Department Benefit Audit Fund (Item 5100-001-184)	−2,439,000
(i) Amount payable from the Employment Development Contingent Fund (Item 5100-001-185)	−21,657,785

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(j)	Amount payable from the Employment Training Fund (Item 5100-001-514)	−60,489,000
(k)	Amount payable from the Unemployment Compensation Disability Fund (Item 5100-001-588)	−56,093,485
(*l*)	Amount payable from the School Employees Fund (Item 5100-001-908)	−526,000
(m)	Amount payable from the Local Public Entity Employees Fund (Item 5100-001-932)	−279,000

Provisions:

1. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated pursuant to Section 1555 of the Unemployment Insurance Code.
2. The Employment Development Department (EDD) shall submit on October 1 and April 20, to the Department of Finance for its review and approval an estimate of expenditures for both current and budget years, including the assumptions and calculations underlying EDD projections for support expenditures for the Unemployment Insurance program from this item. The Department of Finance shall approve, or modify, the assumptions underlying all estimates within 15 working days of their receipt. If the Department of Finance does not approve or modify in writing the assumptions underlying all estimates within 15 working days of receipt, the Employment Development Department shall consider the assumptions and calculations approved as submitted. If the Department of Finance determines that the estimate of support expenditures differs from the amount appropriated by this item, the Director of Finance shall so report to the Legislature. At the time the report is made, the amount of this appropriation shall be adjusted by the difference between this appropriation and the Department of Finance approved estimate for the Unemployment Insurance program. Revisions for the support of the Unemployment Insurance program reported pursuant to this provision are not subject to the provisions of Section 28.00.
3. The department shall not lay off any full-time permanent employees in order to increase its use of temporary or intermittent employees.
4. Of the funds appropriated by this item for support of the Job Services Governor's Discretionary Program, $1,000,000 shall be expended to fund the Los Angeles Southwest College Job Training Project.

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5. Of the funds appropriated in this item, $320,675 shall be used to support 9.6 data collection positions within the department. To the extent that federal funds are not available to support these positions, additional funds in Item 5100-001-185 shall be appropriated to substitute for these federal funds.
6. The Employment Development Department shall prohibit from participating in WIN Demo Job Search Workshops those persons who:
   (a) Have attended a job search workshop in the past 12 months. If after 12 months a registrant has been unable to find a job, EDD shall do an assessment of the person's needs and develop an employability plan to determine whether attending a job search workshop again would be beneficial.
   (b) Have a recent employment history that would indicate that a job search workshop is not necessary.

   These persons may be referred directly to supervised job search or other appropriate employment services.
7. Of the funds appropriated in this item, up to $1,000,000 shall be allocated from Employment Service discretionary funds for EDD to jointly plan and implement with Southwest College, an Employment Referral and Job Training Center, in order to provide services consistent with those described in the Department's Model Employment Programs for Youth. It is the intent of the Legislature that this Center's startup operations be funded with the expectation that the Center shall draw upon Job Training Partnership Act, Employment Training Panel, and other resources which may be available in future years to continue the Center's operation.

5100-001-871—For support of the Employment Development Department, for the purchase of data processing equipment, payable from moneys credited to this state's account in the Unemployment Trust Fund and made available to this state under Section 903 of the Social Security Act (42 U.S.C., Sec. 1103) as amended $1,700,000

Provisions:

1. Funds appropriated in this item shall be requisitioned from the Unemployment Trust Fund pursuant to Section 1528.5 of the Unemployment Insurance Code.
2. The total amount obligated pursuant to this item during the 1985–86 fiscal year shall not exceed the amount by which (a) the aggregate of the amounts credited to the account of this state pursuant to Section 903 of the Social Security Act (42. U.S.C., Sec. 1103) during the 1985–86 fiscal year and the 34 preceding fiscal years, exceeds (b) the aggregate of the amounts obligated for

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administration and paid out for benefits and charged against the amounts credited to the account of this state during these 35 fiscal years.	
5100-001-908—For support of Employment Development Department, for transfer to Item 5100-001-870, payable from the School Employees Fund	526,000
Provisions: 1. Notwithstanding the provisions of Item 9840-001-988, the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item. 2. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated for administration pursuant to Section 822 of the Unemployment Insurance Code. 3. Provision 1 of Item 5100-001-588 is also applicable to this item.	
5100-001-932—For support of Employment Development Department, for transfer to Item 5100-001-870, payable from the Local Public Entity Employees Fund	279,000
Provisions: 1. Notwithstanding the provisions of Item 9840-001-988, the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item. 2. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated for administration pursuant to Section 847 of the Unemployment Insurance Code. 3. Provision 1 of Item 5100-001-588 is also applicable to this item.	
5100-001-979—For support of state programs under the Job Training Partnership Act, Employment Development Department, payable from the Consolidated Work Program Fund	55,879,000
Schedule: (a) 60.10-SJTCC Administration ..... 786,000 (b) 60.20-Incentive and Technical Assistance ..... 12,052,000 (c) 60.30-Older Workers ..... 6,026,000 (d) 60.40-Educational Linkages..... 16,069,000 (e) 60.50-EDD Administration ..... 8,815,000 (f) 60.51-Special Local Projects ..... 442,000 (g) 60.60-Displaced Workers ..... 10,889,000 (h) 60.65-Veterans 800,000	
Provisions: 1. The Job Training Coordinating Council shall apply to the federal government to allow the state to receive and administer Title IV-C funds for veterans' employment programs.	

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2. Up to $188,000 of the funds appropriated in this item shall be provided as reimbursements to Item 8940-001-001 for the California Innovative Military Projects and Career Training (IMPACT) Program, except that these funds shall not be provided to the Military Department as reimbursements and shall be available to the Employment Development Department for expenditure for the Job Training Partnership Act Program to the extent that the Military Department receives from local agencies funds to offset costs scheduled in Item 8940-001-001.
3. Funds appropriated under this item for (b) 60.20, Incentive and Technical Assistance, can be transferred to Item 5100-101-979, upon the approval of the Department of Finance, when Service Delivery Areas decide to operate projects under the federal guidelines of (a) 60.70, Adult and Youth Training programs.
4. The Job Training Coordinating Council shall submit a report to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee of each house by October 1, 1985, concerning the operation of the Job Training Partnership Act (JTPA). The reports shall include the following information:
   (a) The proposed state strategy for implementing the JTPA in California in 1985–86. This strategy shall include a discussion of how the strategy (1) encourages integration of JTPA component programs at the local level, (2) allows JTPA provided by other state employment and training programs, and (3) will provide for coordination by the local service delivery areas (SDA) with the local Employment Development Department (EDD) offices and the county welfare departments in the provision of employment services under the WIN Demo program.
   (b) The plan to improve the quality of service delivery area (SDA) plans required under Title IIa of the JTPA. This plan should include the council's anticipated effort to provide technical assistance to ensure that local SDAs understand the requirements of the plan.
   (c) The statement of coordination with the Department of Economic and Business Development governing economic development projects initiated under the JTPA.
   (d) The plan to revise Title III participation criteria so that they do not exclude the long-term unemployed from participation.
   (e) The plan to ensure that future Title III programs for displaced workers reflect the experience gained from the Employment Development Department evaluation of

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displaced worker programs.

(f) The plan to ensure that all Title III plans contain program data required by state and federal law.

(g) The statement of coordination with the Employment Training Panel establishing effective coordination between the two bodies to ensure that (1) both the council and the Employment Training Panel do not inadvertently provide funding for the same training project and (2) training provided to displaced workers by the panel is applied towards the required Title III state match.

(h) The plan to require SDAs to justify Title III administrative requests. This plan shall include the criteria by which the council or its staff will evaluate local need for administrative funding.

(i) The plan shall be official policy of the JTCC and shall be distributed to the Governor and all Members of the Legislature.

5. (a) The Job Training Coordinating Council (JTCC) and the Employment Development Department (EDD) shall be appropriated $7,730,000 for the support of the administration of the JTPA. These funds shall support the operations of the Job Training Partnership office within EDD, the technical assistance staff previously funded with support from the 6-percent performance incentives and technical assistance funds, and the operations of the JTCC and its staff. These funds shall be used to support only the following expenditures:
(a) Salaries, wages, and fringe benefits;
(b) Allocated operating expenditures;
(c) Travel and training expenses; and
(d) Audit and data processing expenses.

(b) Subdivision (a) is applicable to technical assistance only to the extent that technical assistance cannot be supported from 6-percent funds. If the council does not use these funds for technical assistance, then these funds shall be available to the council for other administrative and program activities relating to planning and coordination, provided the proposed expenditure is included as part of the report specified in this subdivision.

There shall be an additional $2,315,000 in administrative support available to EDD and JTCC on October 1, 1985, that may be spent in support of administrative or program activities, with the approval of the council. EDD and JTCC shall submit a report to the Legislature by September 1, 1985, which identifies the proposed expenditure of these funds. The report shall include:

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A complete description of the proposed use of all 5-percent funds, including a comparison of proposed 1985–86 expenditures with 1984–85 actual expenditures; (b) documentation of the need for any proposed equipment purchases, special project, or set-asides; and (c) detailed description of the uses of any administrative support that is proposed to be used for activities other than administrative activities.		
Funds appropriated for the support of performance incentives and technical assistance (known as the 6-percent funds) shall be used to provide technical assistance only to those service delivery areas that do not qualify for performance incentive awards in 1985–86, except in the event that the federal government issues regulations or guidelines permitting expenditures to other service delivery areas.		
5100-011-870—For support of Employment Development Department, payable from the Unemployment Administration Fund—Federal		865,000
Schedule:		
10—Employment and Employment-Related Services	865,000	
Provisions:		
1. Funds appropriated in this item are for the support of a five-day workshop pilot project in the WIN-DEMONSTRATION Program and shall be payable from the Job Services Governor's Discretionary funds.		
5100-011-890—For support of Employment Development Department, payable from the Federal Trust Fund, for transfer to the Unemployment Administration Fund		296,459,213
5100-016-890—For support of Employment Development Department, payable from the Federal Trust Fund, for transfer to the Unemployment Fund		1,700,000
5100-021-890—For support of Employment Development Department, payable from the Federal Trust Fund, for transfer to the Consolidated Work Program Fund		55,879,000
5100-101-588—For local assistance, Employment Development Department, for Program 20-Tax Collections and Benefit Payments, payable from the Unemployment Compensation Disability Fund		1,038,900,000
Provisions:		
1. Notwithstanding the provisions of Item 9840-001-988, the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item.		
2. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated pursuant to Section 3012 of the Unemployment Insurance Code.		

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3. The Department of Employment Development shall submit on October 1 and April 20, to the Department of Finance for its review and approval, an estimate of expenditures for both current and budget years, including the assumptions and calculations underlying EDD projections for benefits payable from this item. The Department of Finance shall approve, or modify the assumptions underlying all estimates within 15 working days of their receipt. If the Department of Finance does not approve or modify in writing the assumptions underlying all estimates within 15 working days of receipt, the Employment Development Department shall consider the assumptions and calculations approved as submitted. If the Department of Finance determines that the estimate of benefit expenditures differs from the amount appropriated by this item, the Director of Finance shall so report to the Legislature. At the time the report is made, the amount of this appropriation shall be adjusted by the difference between this Budget Act appropriation and the DOF approved estimate. This item is not subject to the provisions of Section 28.00.	
5100-101-870—For local assistance, Employment Development Department, for Program 20—Tax Collections and Benefit Payments, payable from the Unemployment Administration Fund	1,000,000
Provisions:	
1. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated pursuant to Section 1555 of the Unemployment Insurance Code.	
2. Provision 3 of Item 5100-101-588 is also applicable to this item.	
5100-101-871—For local assistance, Employment Development Department, for Program 20—Tax Collections and Benefit Payments, payable from the Federal Unemployment Fund	1,759,000,000
Provisions:	
1. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated pursuant to Section 1521 of the Unemployment Insurance Code.	
2. Provision 3 of Item 5100-101-588 is also applicable to this item.	
5100-101-890—For local assistance, Employment Development Department, payable from the Federal Trust Fund, for transfer to the Consolidated Work Program Fund	232,045,000
5100-101-908—For local assistance, Employment Development Department, for Program 20—Tax Collections and Benefit Payments, payable from the School Employees Fund	19,832,000

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Provisions:

1. Notwithstanding the provisions of Item 9840-001-988, the Director of the Department of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item.
2. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated for benefits pursuant to Section 822 of the Unemployment Insurance Code.
3. Provision 3 of Item 5100-101-588 is also applicable to this item.

5100-101-932—For local assistance, Employment Development Department, for Program 20—Tax Collections and Benefit Payments, payable from the Local Public Entity Employees Fund 3,535,000

Provisions:

1. Notwithstanding the provisions of Item 9840-001-988, the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item.
2. Funds appropriated in this item are in lieu of the amounts which would have otherwise been appropriated for benefits pursuant to Section 847 of the Unemployment Insurance Code.
3. Provision 3 of Item 5100-101-588 is also applicable to this item.

5100-101-979—For local assistance under the Job Training Partnership Act, Employment Development Department, payable from the Consolidated Work Program Fund 232,045,000

Schedule:

(a) 60.70-Adult and Youth Training Programs 156,673,000
(b) 60.80-Summer Youth Programs 75,372,000

5100-111-890—For local assistance, Employment Development Department, payable from the Federal Trust Fund ..... (1,760,000,000)

Schedule:

(a) For transfer to the Federal Unemployment Fund (871) ..... (1,759,000,000)
(b) For transfer to the Unemployment Administration Fund (870) (1,000,000)

5100-490—Reappropriation, Employment Development Department. As of June 30, 1985, the unexpended balance of the appropriation made by Item 5100-101-979, Budget Act of 1984, is hereby appropriated for transfer to and in augmentation of Item 5100-101-979, Budget Act of 1985, and shall be available for encumbrance and expenditure through June 30, 1986

Item		Amount
Provisions:		
1. The Employment Development Department shall notify the Legislature by December 1, 1985 of the actual amount of 1984–85 Federal Job Training Partnership Act local assistance funds carried forward into 1985–86 for expenditure.		
5100-301-870—For Capital Outlay, Employment Development Department, payable from the Unemployment Administration Fund—Federal		202,000
Schedule:		
(1) 80.37.020-Minor projects	202,000	
5100-301-890—For Capital Outlay, Employment Development Department, payable from the Federal Trust Fund, for transfer to the Unemployment Administration Fund—Federal		(202,000)
Schedule:		
(1) 80.37.020-Minor projects (For transfer to Item 5100-301-870)	(202,000)	
5160-001-001—For support of Department of Rehabilitation		18,033,601
Schedule:		
(a) 10-Vocational Rehabilitation Services	109,661,601	
(b) 20-Habilitation Services	1,607,000	
(c) 30-Support of Community Facilities	3,134,000	
(d) 40.01-Administration	11,604,000	
(e) 40.02-Distributed Administration	−11,604,000	
(f) Reimbursements	−4,534,000	
(g) Amount payable from the Federal Trust Fund (Item 5160-001-890)	−91,835,000	
Provisions:		
1. Project Interdependence shall establish a separate bank account outside the State Treasury for the purposes of depositing and disbursing funds from private sources, to the extent allowable under state and federal law. The Project Interdependence Board shall recommend to the project director criteria and necessary safeguards for this separate account consistent with the accountability and flexibility needed to administer and finance the project with private contributions.		
2. No more than $899,000 of the funds appropriated in this item shall be expended for salaries and wages through an attrition blanket, and no expenditures shall be made from the attrition blanket after December 31, 1985, unless authorized pursuant to Section 28 of the Budget Act due to administrative delays relative to Section 19798 of the Government Code.		

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3. At least $23,300 of the funds appropriated in this item shall be awarded to the Living Skills Center for the Visually Handicapped in San Pablo, California in order to provide a 10 percent inflation adjustment to the center's 1984–85 contracted reimbursement rate with the Department of Rehabilitation.

5160-001-890—For support of Department of Rehabilitation, for transfer to Item 5160-001-001, payable from the Federal Trust Fund 91,835,000

Provisions:

1. No funds appropriated by this item for the support of programs administered through the Department of Rehabilitation's field offices shall be redirected for support of staffing or expenses incurred by its central office operations.

5160-101-001—For local assistance, Department of Rehabilitation 59,116,000

Schedule:

(a) 10-Vocational Rehabilitation Services	595,000
(b) 20-Habilitation Services	50,874,000
(c) 30-Support of Community Facilities	5,483,000
(d) Special Adjustment Cost-of-Living Adjustment	2,164,000

Provisions:

1. Of the amount appropriated within schedule (b), $600,000 shall be used to fund up to 20 Habilitation Supported Employment Projects which lead to employment of persons with developmental disabilities, with ongoing support as needed in order for those persons to maintain employment. The department shall report to the Legislature by April 1, 1986, on the progress and costs of these projects. If federal funding is received for this purpose, it shall be used in place of the General Fund dollars provided.

3. The Department of Rehabilitation shall submit to the Legislature on November 1 and May 1 an estimate of the Work Activity program caseloads for both the current year and the budget year. This report shall include the assumptions and calculations underlying the estimates, and shall discuss any differences between the projected and actual caseloads for the same period of time. In addition, caseload estimates projected in these reports shall be determined using estimating procedures that incorporate the following information:
   (a) The number of special education students who could realistically become Work Activity program clients.
   (b) The number of regional center clients who are potential Work Activity program cli-

Item	Amount

ents.

(c) The potential impact on Work Activity program caseloads of any planned release of clients from state hospitals.

4. Of the amount appropriated in category (c), $950,000 shall be used to establish new Independent Living Centers (ILC) in order to serve part of the 30 percent of the state's unserved disabled population. Each new center shall receive a $90,000 base allocation plus an additional amount based on the proportion of disabled population served. The department shall accept requests for proposals and distribute the funds by October 15, 1985.

Organizations for independent living in the following areas shall be given priority for the funding: Santa Cruz, Nevada, Contra Costa, Stanislaus, San Luis Obispo, and Yolo Counties, and Pasadena/Altadena and Claremont. To the extent possible, new ILC's shall be established in accordance with the preliminary findings of the statewide plan to deliver independent living services.

The $950,000 shall be used to support the development of ILC's by making grants to organizations which:

(a) Are incorporated as nonprofit public-benefit corporations prior to June 30, 1985;

(b) Require at least 51 percent of the members of the board of directors to be persons with disabilities; and

(c) Will serve persons with disabilities (regardless of the nature of disability) who;

(1) Reside outside the defined catchment areas of ILC's funded during 1984–85, or

(2) Reside in areas which are not effectively served by an existing center.

Any organization satisfying the above criteria shall be eligible to apply for these funds despite failure to meet any other requirements set forth in Sections 19800 et seq. of the Welfare and Institutions Code, provided, however, that all organizations must, by June 30, 1986, meet all statutory and regulatory requirements to qualify for continuation funding in the 1986–87 fiscal year.

5. Of the amount appropriated in category (a), $195,000 shall be provided to the Center for the Partially Sighted in Southern California. If any funds remain unallocated after the above allocation is made, $100,000 of these funds shall be allocated to provide services to the partially sighted in Northern California. If any funds remain unallocated after the two allocations described above are made, up to $300,000 shall be available to provide services to the Center for the Partially Sighted in Southern California.

5180-001-001—For support of Department of Social Services	58,183,750

Item		Amount
	Schedule:	
	(a) 10-Welfare Program Operations ..	50,999,852
	(b) 20-Social Services Programs	41,824,000
	(c) 30-Community Care Licensing	23,824,000
	(d) 40-Disability Evaluation Program	83,205,000
	(f) 60.01-Administration	57,812,000
	(g) 60.02-Distributed Administration	−53,214,000
	(h) Reimbursements	−7,369,000
	(i) Amount payable from the Federal Trust Fund (Item 5180-001-890)	−138,898,102

Provisions:

1. The Director of Finance may authorize the transfer of General Fund moneys from Item 5180-001-001(c) to Item 5180-161-001, Program 30, Community Care Licensing, in order to allow counties to perform the facilities evaluation function.
2. Of the funds appropriated by this item, $20,034 are for attorney fees pursuant to Section 10962 of the Welfare and Institutions Code.
3. The Department of Social Services shall exert maximum possible effort toward obtaining enhanced federal funds participation in the state support costs and county administrative costs of each of the projects included in the Standardized Automated Welfare System (SAWS) plan. The Director of Finance shall notify the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee of the receipt of enhanced federal funds participation for the SAWS projects. The notice shall provide for increases in the federal funds appropriated in Items 5180-001-890 and 5180-141-890 and offsetting reductions in the General Fund amount appropriated in this item and Item 5180-141-001 for the SAWS projects to reflect the increased rate of federal funds participation.
4. Prior to the expenditure of $526,000 of funds contained in this item and $466,000 contained in Item 5180-001-890 for the purpose of implementing Phase I of Department of Social Services Office Automation proposal, the Office Automation pilot project evaluation must be completed and Department of Finance approval for the expenditures of the funds must be obtained.
5. Upon request of the Department of Social Services, the Director of Finance may transfer up to $4,900,000 between Items 5180-001-001 (a) and 5180-001-890, to Items 5180-141-001, Program 10.20, County Administration, schedule (a) and Item 5180-141-890, and Item 5180-151-001, and Item 5180-151-890, Program 20.40, Specialized Family and Children's Services, schedule (c) (1) and Item 5180-151-890, funds which are necessary for county WIN-demonstration activities.

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This transfer shall require notification to the Chairperson of the Joint Legislative Budget Committee.

6. Unless otherwise exempt, the following persons shall be prohibited from participation in county WIN-Demo until the county welfare department determines that the situation no longer exists:
   (a) A caretaker relative who is enrolled in school for at least twelve units of credit and has a child under age six, shall be considered unsuitable for WIN-Demo participation.
   (b) Other registrants shall be prohibited from WIN-Demo participation upon a determination made by the county welfare department. Registrants who shall be prohibited include those who:
      (1) Are so seriously dependent upon alcohol or drugs that work or training is precluded;
      (2) Have an emotional or mental problem that precludes participation;
      (3) Are involved in legal difficulties (such as court-mandated appearances) which preclude participation;
      (4) Do not have the legal right to work in the United States;
      (5) Have a severe family crisis;
      (6) Are in good standing in a union which controls referrals and hiring in the occupation;
      (7) Are involved in an unresolved trade dispute;
      (8) Require purchased services that are unavailable in the county;
      (9) Are temporarily laid off from a job;
      (10) Are exluded principal earners;
      (11) Are in the last semester of training, or the final four months of training if the school does not operate on a semester basis;
      (12) Are employed for 15 to 30 hours per week;
      (13) Are enrolled in a self-initiated vocational training program of limited duration which leads to unsubsidized employment.
      (14) Are ill or a family member is ill.

   Participants shall be notified in writing that payment for child care is available, and child care shall be provided to persons who request it and are required to participate in job search workshops.

5180-001-890—For support of Department of Social Services, for transfer to Item 5180-001-001, payable from the Federal Trust Fund..... 138,898,102

Provisions:

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1. The Director of Finance may authorize the transfer of federal funds from this item to Item 5180-161-890, in order to allow counties to perform the facilities evaluation function in Community Care Licensing.
2. Provisions 3 and 4 of Item 5180-001-001 are also applicable to this item.

5180-101-001—For Local Assistance, Department of Social Services 1,653,560,000

Schedule:

(a) 10.04.005-Aid to Families with Dependent Children 3,366,982,000
(b) 10.04.010-Child Support Incentives 37,552,000
(c) 10.04.015-Aid for Adoption of Children/Adoption Assistance Program 9,499,000
(d) Reimbursements ..... —600,000
(e) Amount payable from the Federal Trust Fund (Item 5180-101-890) ..... —1,759,873,000

Provisions:

1. No funds appropriated by this item shall be encumbered unless every rule or regulation adopted and every all-county letter issued by the Department of Social Services which adds to the cost of any welfare program is approved by the Department of Finance as to the availability of funds before it becomes effective. In making the determination as to availability of funds to meet the expenditures of a rule, regulation, or all-county letter which would increase the costs of a welfare program, the Director of Finance shall consider the amount of the proposed increase on an annualized basis, the effect such change would have on the expenditure limitations for such program set forth in this act, the extent to which the rule, regulation, or all-county letter constitutes a deviation from the premises under which the expenditure limitations were prepared, or any additional factors relating to the fiscal integrity of such program or the state's fiscal situation.

   Notwithstanding the provisions of Sections 26.00 and 28.00, the availability of funds contained in this item for welfare rules, regulations, or all-county letters which add to program costs funded from the General Fund in excess of $500,000 on an annual basis, including those that are the result of a federal regulation but excluding those that are (a) specifically required as a result of the enactment of a federal or state law, or (b) included in the appropriation made by this act, shall not be approved by the Director of Finance sooner than 30 days after notification in writing of the necessity therefor to the chairper-

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son of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.

Funds appropriated in this item are for welfare programs as they exist on July 1, 1985, consisting of state and federal statutory law, regulations, and court decisions, if funds necessary to carry out such decisions are specifically appropriated in this act.

For purposes of this provision "welfare" shall mean those program elements under "Welfare Program Operations," as found in the Governor's Budget and consistent with definitions used in the California Fiscal Information System (CFIS).

2. The Department of Social Services shall administer the public assistance programs so that the counties will bear no more than the amount of welfare costs that they would be obligated to bear under the applicable provisions of the Welfare and Institutions Code, without the expenditure limitations set forth herein, and so that the amount authorized to be expended in program 10.04, Aid to Families with Dependent Children program shall fully cover the state share of aid payments and for services under such programs for the 1985–86 fiscal year.
3. There is hereby established for the next two quality control review periods, a dollar error rate standard of 4 percent, pursuant to Section 15200.4 of the Welfare and Institutions Code.

For the purposes of state sanctions pursuant to Section 15200.4 of the Welfare and Institutions Code, the error rate estimate that shall be used to measure the quality performance of each county shall be the low point estimate of the confidence interval estimated by combining the results from the two quality review samples conducted during the two subsequent quality review periods.

Amounts realized from the counties as the result of a state fiscal sanction shall first be applied as an offset to the state's share of Program 10.04, Payments for Children. To the extent that this application results in a surplus to the General Fund appropriation for that program, such surplus shall revert to the General Fund.

4. The Director of Finance is authorized to approve expenditures in those amounts made necessary by changes in either caseload or payments, or any rule or regulation adopted and any all-county letter issued in Program 10.04, Payments for Children, as a result of the enactment of a federal or state law, the adoption of a federal regulation, or the following of a court

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decision, during the 1985–86 fiscal year which are within or in excess of amounts appropriated in this act for that year.

If the Director of Finance determines that the estimate of expenditures will exceed the expenditures authorized for Program 10.04, Payments for Children, the director shall so report to the Legislature. At such time as the report is made, the amount of the limitation shall be increased by the amount of such excess unless and until otherwise provided by law.

5. Notwithstanding Chapter 1 of Part 6 of Division 9 of the Welfare and Institutions Code, a loan not to exceed $85,000,000 shall be made available from the General Fund from funds not otherwise appropriated, to cover the federal share of costs for the Aid to Families with Dependent Children Program when the federal share has not been received by this state prior to the usual time for transmitting such federal share to the counties of this state. Such loan from the General Fund shall be repaid when the federal share becomes available.

6. If the amount appropriated by the Budget Act is less than the amount necessary to reimburse group homes for their actual allowable costs, all group homes shall receive a cost-of-living adjustment (COLA) that is equal to the percentage appropriated by the Budget Act. The department shall not adopt or promulgate regulations that in any way preclude a home from receiving the full COLA.

If the amount appropriated by the Budget Act is sufficient to reimburse group homes for their actual allowable costs, the rates paid for foster children placed in group homes shall be the 1985–86 cost rate, defined as proposed by the department in Section 11.400.1 (c) of the Administrative Standards for Public Social Services, AFDC-Foster Care Rates.

Only if all group homes are reimbursed for their actual allowable costs can the department establish rates in 1985–86 as proposed in regulations submitted to the Office of Administrative Law.

It is the intent of the Legislature that, effective July 1, 1987, rates paid for foster children placed in group homes shall be made on a prospective basis. The department, with the cooperation of the counties and agencies which provide care for foster children in group homes, shall develop a prospective payment system in adequate time that it may be implemented by July 1, 1987.

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7. The Legislature finds and declares that all counties now meet or exceed the foster family rate schedule established pursuant to Section 11461 of the Welfare and Institutions Code. For the 1985–86 fiscal year, notwithstanding Section 11461 of the Welfare and Institutions Code, it is the intent of the Legislature that foster families in each county receive the full COLA provided in this budget. Whatever rate adjustment is necessary to accomplish the above, and which is not provided in the COLA section of this budget, shall be provided in this item.	
5180-101-890—For local assistance, Department of Social Services, for transfer to Item 5180-101-001, payable from the Federal Trust Fund	1,759,873,000
Provisions: 1. Provisions 1–6, inclusive, of Item 5180-101-001 are also applicable to this item.	
5180-111-001—For local assistance, Department of Social Services	1,278,225,000
Schedule: (a) 10.08—SSI/SSP 1,284,624,000 (b) Amount payable from the Federal Trust Fund (Item 5180-111-890) .. −6,399,000	
Provisions: 1. Provision 1 of Item 5180-101-001 is also applicable to this item.	
5180-111-890—For local assistance, Department of Social Services, for transfer to Item 5180-111-001, payable from the Federal Trust Fund	6,399,000
Provisions: 1. Provision 1 of Item 5180-101-001 is also applicable to this item.	
5180-121-001—For local assistance, Department of Social Services	1,764,000
Schedule: (a) 10.12—Special Adult Programs .... 1,839,000 (b) Amount payable from the Federal Trust Fund (Item 5180-121-890) .. −75,000	
Provisions: 1. Provision 1 of Item 5180-101-001 is also applicable to this item.	
5180-121-890—For local assistance, Department of Social Services, for transfer to Item 5180-121-001, payable from the Federal Trust Fund	75,000
Provisions: 1. Provision 1 of Item 5180-101-001 is also applicable to this item.	
5180-131-890—For local assistance, Department of Social Services, Program 10.24—Refugee Cash Assistance Programs, payable from the Federal Trust Fund	52,331,000
5180-141-001—For local assistance, Department of Social Services, Program 10.20—County Administration	124,746,000

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Schedule:

(a) 10.20-County Administration 489,648,000

(b) Amount payable from the Federal Trust Fund (Item 5180-141-890) ..... −364,902,000

Provisions:

1. The Department of Social Services may act in the place of any county and assume direct responsibility for the administration of eligibility and grant determination. Upon recommendation of the Director of Social Services, the Department of Finance may authorize the transfer of funds from Items 5180-141-001 and 5180-141-890, to Items 5180-001-001 and 5180-001-890 for this purpose.
2. During the 1985–86 fiscal year, pursuant to Sections 15204.5 and 18906 of the Welfare and Institutions Code, the Department of Social Services shall continue the implementation of a plan whereby costs for county administration for AFDC and Food Stamp Programs will be effectively controlled within the total state funds appropriated for Program 10.20, County Administration.

   Notwithstanding any provisions of the Welfare and Institutions Code to the contrary, the total amount of state funds available to the counties for administration of the programs specified in Program 10.20, County Administration, shall be limited to the amount appropriated for that program.
3. Notwithstanding any other provisions of law, the Department of Social Services may withhold state financial support of a county's automated welfare operations if the county does not provide a fiscal accounting of such operations in the form and manner as may be requested by the department. Provided further, that the Department of Social Services may enter into an agreement with a county wherein state financial support for the development or modification of county-automated welfare operations is conditioned upon the realization of savings projected by the county.
4. Provision 1 of Item 5180-101-001 is also applicable to this item.
6. All counties with State Department of Social Services approved Early Fraud Prevention/Detection Programs shall refer applicants to a fraud investigation only after they have completed and signed the application for aid. If eligibility for assistance is established, such referral and investigation shall not delay the receipt of aid, including immediate need payments.

   It is the intent of the Legislature that no intimidation based on fraud allegations shall occur whether by referral, or threat of referral, prior to the completion of the application for aid.

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Whenever an application is withdrawn because of a fraud referral, the withdrawal shall be documented by a caseworker and the county shall keep records of all such withdrawals.

The caseworker shall provide a complaint form to any applicant who withdraws his or her application after being referred to the program. The county shall provide the department with copies of all complaints.

The department shall approve county proposals which provide satisfactory results regardless of the personnel classifications used. No proposal shall be approved that includes the employment of uniformed investigators. Counties shall give first priority for hiring additional fraud detection specialists to those county employees who have been laid off as a result of funding cuts and shall provide the necessary training to these individuals in order for them to carry out the duties of the positions.

The department shall submit a report, by February 15, 1986, to the Joint Legislative Budget Committee and the fiscal committees, describing the methodology used to calculate the savings that it estimates will result from this project.

The report shall also describe the following for calendar year 1985: the number of applications in each county; the number of cases referred in each county; the number of investigations; the number of cases denied and withdrawn; the reasons that cases were denied or withdrawn; the number of cases referred to the District Attorney's Office for prosecution; the number and results of fair hearings that involved determinations made by the program; and the actual savings generated by this program since its implementation. In addition, the department shall report any complaints received by the county regarding the county programs.

The report shall also provide recommendations for corrective actions that should be taken with respect to counties that have a benefit-cost ratio in this program of less than 2 to 1 for fiscal year 1984–85. The report shall also identify any counties that refer more than 10 percent of their applicants to the program for fiscal year 1984–85 and shall provide the department's evaluation of the appropriateness of the referrals made in these counties.

The department shall have an Early Welfare Fraud Detection Advisory Committee that shall review all plans submitted to the department prior to approval by the department, and the department shall take into consideration the comments of the committee prior to approving or rejecting the county plan. The department shall advise the committee, in writing, of its reasons for rejecting the committee's recommenda-

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tions in this regard. The committee shall be composed of two persons appointed by the California Welfare Fraud Investigators Association, two persons appointed by the California Welfare Directors Association, two persons appointed by social services labor unions, and two persons appointed by the Coalition of California Welfare Rights Organizations. The committee shall meet not more than quarterly and make such reports as it deems appropriate to the Legislature and the director of the department. The committee may also hold hearings regarding the effectiveness of the program and take public testimony from individuals regarding their opinions about the program.

The department shall reimburse members for their travel and per diem expenses.

7. The Department of Social Services shall submit to the Chairperson of the Joint Legislative Budget Committee by October 1, 1985, in conjunction with the Department of Health Services and the County Welfare Directors Association, a plan for conducting a study of the eligiblity determination process for AFDC, Food Stamps, and Medi-Cal and for analyzing existing eligibility worker caseloads, and for determining the appropriate caseload targets in light of existing federal and state laws, regulations, and court decisions which have affected the administration of this program.

The department's plan shall, at a minimum, address the following issues:

(a) The time necessary to perform federal and state mandated tasks in the eligibility determination process;

(b) Variances in service deliveries at the county level, including staffing differences based on types and levels of staff utilized and the overhead costs related to the eligibility determination process;

(c) The efficiencies that arise from the use of electronic data processing;

(d) The effect of various eligibility worker caseloads and county overhead expenditures (on a per-case basis) on (1) both positive and negative error rates and (2) waiting times and processing delays. Because it may not be possible to create a precise statistical model of these relationships, the plan shall address the option of using a peer grouping model in which counties with exceptionally high error rates (either positive or negative) and/or exceptionally long waiting times and processing delays are excluded from the study; and

(e) Variances in client characteristic county geography, and caseload size.

The Department of Social Services shall

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	begin the study no sooner than 30 days after submitting the plan to the Chairperson of the Joint Legislative Budget Committee. Any changes in the budgeted caseload targets for the AFDC and Food Stamp programs after the 1985–86 fiscal year shall be postponed until the study has been completed and the department has presented the study findings to the Legislature, with recommendations on appropriate caseload targets and funding levels. These recommendations shall be developed in consultation with the County Welfare Directors Association.	
	8. Of the funds appropriated in this item for costs of administering the Special Circumstances Program, the department shall limit state reimbursement for an individual county's administrative costs to 100 percent of the county's total benefit expenditures, or actual administrative costs, whichever is less.	
5180-141-890—For local assistance, Department of Social Services, for transfer to Item 5180-141-001, payable from the Federal Trust Fund		364,902,000
Provisions:		
	1. Provisions 1–5, inclusive, of Item 5180-141-001 are also applicable to this item.	
5180-151-001—For local assistance, Department of Social Services, Program 20—Social Services Programs		285,180,000
Schedule:		
(a) 20.30-Other County Social Services	225,603,000	
(1) 20.30.010-Child Welfare Services Grant	166,707,000	
(2) 20.30.030-County Services Block Grant	58,896,000	
(b) 20.35-Specialized Adult Services	369,780,000	
(1) 20.35.220-In-Home Supportive Services	364,303,000	
(2) 20.35.240-Maternity Care	2,167,000	
(3) 20.35.250-Access Assistance for the Deaf	3,310,000	
(c) 20.40-Specialized Family and Children's Services	15,593,000	
(1) 20.40.260-Specialized Family and Children's Services-Work Incentive Program	12,782,000	
(2) 20.40.267-Job Partnership Training Act	2,811,000	

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(d)	20.42-Adoptions	24,378,000
(e)	20.45-Refugee Assistance Services	66,544,000
(f)	20.47-Child Abuse Prevention	14,859,000
(g)	Amount payable from the Federal Trust Fund (Item 5180-151-890)	−431,577,000

Provisions:

1. The amounts contained in this schedule are for Social Services Programs, for the cost of special social service programs for which federal grants in aid are made to the state; for grants or services to local agencies for the extension of child welfare services as provided by Chapter 5 (commencing with Section 16500) Part 4, Division 9 of the Welfare and Institutions Code; for the cost of the adoption programs and care of children, to be expended in accordance with the provisions of Chapter 2 (commencing with Section 16100) of Part 4 of Division 9 of the Welfare and Institutions Code; for the costs incurred by counties, including, but not limited to, the required matching funds, for in-home supportive services as provided by Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, and for prevention of child abuse and neglect as provided by Chapter 11, Part 6 of Division 9 of the Welfare and Institutions Code.
2. Provision 1 of Item 5180-101-001 is also applicable to this item.
3. In accordance with the provisions of Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, $355,790,000, consisting of $346,289,000 scheduled in (b)(1) of this item and $9,501,000 in county funds is the designated level of funding for the In-Home Supportive Services Program for fiscal year 1985–86.
4. Notwithstanding Chapter 1 of Part 6 of Division 9 of the Welfare and Institutions Code, a loan not to exceed $22,800,000 may be made available from the General Fund from funds not otherwise appropriated upon the approval of the Director of Finance to cover the federal share of costs for the In-Home Supportive Services Program when the federal share has not been received by this state prior to the usual time for transmitting such federal share to the counties of this state. Such loan from the General Fund shall be repaid when the federal share becomes available.
5. It is the intent of the Legislature to provide counties with sufficient flexibility to manage their programs efficiently. Thus, a county may allocate a different amount for CWS than what is contained in the department's allocation as long as it provides the department with accepta-

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ble documentation that the changes can be accomplished without reducing the level of services initially funded for CWS.

To do so, the county must notify the Director of Social Services in writing of its intent to fund CWS at a different level than included in the allocation plan. The notification shall include (a) the amount of the proposed transfer; (b) an identification of the purposes for which the funds will be used; and (c) the impact of any transfer on the level of services affected.

If the total amount of transfers from the counties are different from the amount appropriated by this act, the department shall notify the Department of Finance.

The Director of Finance may authorize the transfer of funds between those appropriated for CWS and those appropriated for In-Home Supportive Services (IHSS) administration, information and referral, adult and optional services no sooner than 30 days after written notification to the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee. The notification shall include (1) the amount of proposed transfer; (2) an identification of the purposes for which the funds will be used; (3) the impact of any transfer on the level of services; and (4) documentation that the transfer can be accomplished without reducing the level of services initially funded by this act for CWS.

6. Prior to the expenditure of $702,908 of funds contained in this item for the purpose of implementing case management and information enhancements to the In-Home Supportive Services payroll system, an amendment to the 1982 Feasibility Study Report must be completed and Department of Finance approval for the expenditure of these funds must be obtained.
7. Funds provided by this act to fund Child Abuse and Neglect Prevention programs authorized by this item shall be used to supplement, not supplant, services provided pursuant to Section 16501 of the Welfare and Institutions Code to create a continuum of services.
8. $700,000 of the amount appropriated in Item 5180-151-001(b), Program 20.35, Specialized Adult Services, shall be allocated to increase the level of services provided by contractors under Program 20.35.250, Access Assistance for the Deaf. Further, it is not the intent of the Legislature that these funds be used to supplant or encourage the reduction of any locally generated funding for this program. Therefore, prior to the allocation by the department of any funds above the 1984–85 contract levels, each contractor must submit a report detailing locally generated

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funds expended in 1984–85 and an estimate of locally generated funds for 1985–86. In instances where the 1985–86 estimate is lower than the amount expended in 1984–85, the contractor shall submit a detailed explanation of the reasons for the decrease.

Each contractor funded under Item 5180-151-001(b), Program 20.35, Specialized Adult Services, shall submit the following reports to the department by October 1, 1985:

(a) A plan for expending the 1985–86 contract amount by service category as outlined in Section 10621 of the Welfare and Institutions Code, including individuals served, units of service, and expenditures by each category.

(b) An estimate of need for the 1986–87 fiscal year by October 1, 1985, in the date elements outline in paragraph (a).

9. Funds shall be appropriated from this item for an In-Home Supportive Services Pilot Project, as follows:

(a) The Legislature finds and declares that due to severe physical or mental disabilities, some recipients of In-Home Supportive Services are incapable of adequately supervising services providers, and others cause extreme difficulties in a service provider's efforts to interact with the client due to the client's aggressiveness or belligerence.

(b) Of the funds appropriated by this item, $50,000 is for an In-Home Supportive Services Pilot Project (Pilot Project) in Sacramento County for the training of service providers, and for mediating disputes with, not to exceed 50 clients whose severe physical or mental disabilities present problems either to the provider or the client, as described in subdivision (a). The pilot project provided for under this section shall be operated for a period of one year.

(c) Under the pilot project established pursuant to subdivision (b), the county shall choose up to 50 clients whose severe physical or mental impairment create difficulties in supervising service providers, or difficulties in interaction with a service provider. The county shall provide training to service providers who shall be providing services to these clients. The training shall be designed to address the problems which these client's disabilities create. The county shall also handle mediation of disputes arising between clients selected for this pilot project and their service providers.

(d) As an incentive for providing services to clients selected for this pilot project, service

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providers shall be provided with an incentive wage increase of $0.45 cents per hour in addition to the existing wage which would be paid to the provider, with the incentive payment limited to 260 hours for each client per month.

(e) The Department of Social Services shall submit a report to the chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committee of each house by March 1, 1986, describing the project and evaluating the effectiveness of training and incentive pay in reducing IHSS provider turnover as follows:

(1) The impact of training on the level of care for clients.

(2) The reduction in the provider turnover rate and in administrative costs for mediating client problems and securing frequent provider replacement.

(3) The criteria to be developed for the selection of the clients and providers for training to ensure the appropriate use of project funds.

(4) The most cost-effective way to provide training to individual providers.

10. Of the funds appropriated in category (f), Child Abuse Prevention, expansion funds shall be apportioned to counties in a manner proportionate to their 1984–85 entitlements. Expansion funds shall be used for direct services provided by public or private nonprofit agencies from January 1, 1986, through June 30, 1986.

In distributing the expansion funds, counties shall give priority to programs that address unmet needs for services to children at risk of abuse and for their families, including, but not limited to, children under the age of five, victims of sexual abuse or children at risk of sexual abuse, and teenage parents.

In provision of services, emphasis shall be placed on development of mechanisms to respond to children who, in the estimation of social workers, are at risk of abuse, but who are unable to testify in court, or for other reasons are excluded from the SB 14 system.

Programs which are no longer continued as a result of the rebidding process may submit claims to the Department of Social Services for ending activities such as reasonable final services to clients, evaluation, and payment of staff benefits. Claims may not exceed the programs' unused 1984–85 funds.

Counties shall make an effort to coordinate funds available from SB 14, AB 1733, and the Children's Trust Fund, Child Abuse Prevention Training in the Schools, and the Victims Restitution Program.

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The Department of Social Services shall report back to the Legislature as follows:
(a) An evaluation of currently funded programs by December 30, 1985.
(b) The status of new funding on a county-by-county basis by December 30, 1985.
(c) All activities mandated by AB 1733 and subsequent budget language by March 30, 1986.

11. Of the funds appropriated in category (a) (2), the County Services Block Grant (CSBG), $2,000,000 shall be an augmentation for adult protective services. It is the intent of the Legislature, in providing this augmentation, to address the underfunding of adult protective services and the losses in purchasing power in the Adult Protective Services Program since the 1981–82 fiscal year. No county shall expend less of its CSBG for adult protective services in the 1985–86 fiscal year, including county matching funds required under the provisions of Chapter 978 of the Statutes of 1982, than it did in the 1984–85 fiscal year. This augmentation represents half-year funding to be allocated beginning January 1, 1986, and shall supplement, not supplant, those CSBG funds, including mandatory county matching funds, expended in the 1984–85 fiscal year.

Augmentation funds shall be utilized to develop and maintain a basic system in each county to ensure that reports of elder and dependent adult abuse can be reported to the county on a 24-hour basis and that the county shall arrange for services in situations of extreme emergency, which may include, but are not limited to, any of the following: law enforcement intervention, paramedic services, and emergency shelter services. In those adult protective service situations which are not of extreme emergency, the county may refer the reports taken after normal business hours to the appropriate services unit for action the following day.

In consultation with representatives of county government, the Department of Social Services shall determine those funds necessary from this augmentation for the development and maintenance of the 24-hour access capability in each county. Those funds in excess of that amount shall be used to fund additional adult protective services in each county.

Prior to the receipt of any adult protective services augmentation funds, each county shall prepare a plan for approval by the Department of Social Services which outlines how the county shall comply with the 24-hour access requirement and the services the county shall make available with the augmentation funds. In con-

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sultation with representatives of county government, the department shall: (1) by August 31, 1985, develop minimum guidelines for counties to follow when developing their county plans; (2) by December 31, 1985, develop an allocation formula for the augmentation funds, and; (3) no later than January 1, 1986, allocate these augmentation funds.

Each county shall utilize available adult protective services resources in the county prior to developing new county-operated resources when the private adult protective service resources are of at least equal quality and lesser, or equal, cost as compared with county-operated resources.

The Department of Social Services shall provide a status report to the Joint Legislative Budget Committee by March 1, 1986, on the implementation of these requirements.

5180-151-890—For local assistance, Department of Social Services, for transfer to Item 5180-151-001, payable from the Federal Trust Fund 431,577,000

Provisions:

1. Provisions 1 and 3 of Item 5180-151-001 and Provision 1 of Item 5180-101-001 are also applicable to this item.
2. Any unexpended funds from the Job Training Partnership Act available for child care programs in 1984–85 shall be available for expenditure in 1985–86 for the same purpose.
3. The department shall (with the assistance of the State Personnel Board and the Department of Personnel Administration) contract with up to one person per county in the Office of Refugee Services to work closely with the counties and projects in implementing the targeted assistance program. These individuals should have some experience in communities and their economic development. These individuals shall be responsible for helping refugee community-based organizations acquire and develop the capacity to compete for and operate service programs. These individuals shall also help counties in the planning and ongoing evaluation processes.

   The amount of funds set aside for this purpose shall not exceed one-half of the amount appropriated for state administrative costs of the Targeted Assistance Program. This paragraph is conditional upon availability of federal funds for the Targeted Assistance Program.

5180-161-001—For local assistance, Department of Social Services 9,901,000

Schedule:

(a) 30-Community Care Licensing 12,636,000
(b) Amount payable from the Federal Trust Fund (Item 5180-161-890) .. −2,735,000

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Provisions:		
1. The Director of Finance may authorize the transfer of amounts from this item to Item 5180-001-001, Program 30—Community Care Licensing, in order to allow the state to perform the facilities evaluation function in the event the counties fail to perform such function, or to provide an equitable funding between the state and the counties based on recent caseload estimates.		
5180-161-890—For local assistance, Department of Social Services, for transfer to Item 5180-161-001, payable from the Federal Trust Fund		2,735,000
Provision:		
1. The Director of Finance may authorize the transfer of amounts from this item to Item 5180-001-890 in order to allow the state to perform the facilities evaluation function in the Community Care Licensing Program in the event the counties fail to perform such function.		
5180-181-001—For local assistance, Department of Social Services, Program 97.10—Special Adjustments—Cost-of-Living Adjustments, to be transferred to and in augmentation of programs, upon approval of the Department of Finance, effective July 1, 1985, in accordance with the following schedule		260,226,000
Schedule:		
(a) 10.08—SSI/SSP (for transfer to Item 5180-111-001)	112,258,000	
(b) 20—Social Services Program (for transfer to Item 5180-151-001)	53,413,000	
(c) 30—Community Care Licensing (for transfer to Item 5180-161-001)	395,000	
(d) 10.04.005—Aid to Families with Dependent Children (for transfer to Item 5180-101-001)	199,549,000	
(e) 10.20—County Administration (for transfer to Item 5180-141-001)	17,485,000	
(f) 10.24—Refugee Cash Assistance (for transfer to Item 5180-131-890)	1,552,000	
(g) Amount payable from the Federal Trust Fund (Item 5180-181-890)	−124,426,000	
Provisions:		
1. Notwithstanding any other provision of law to the contrary, General Fund money appropriated by this item for Program 10.20, County Administration, shall be used solely to support the General Fund share of 1985–86 county administrative costs exclusive of any 1985–86 cost-of-living adjustments granted by counties.		
2. Funds appropriated by this item to In-Home Supportive Services (IHSS) shall be used for provider cost-of-living adjustments (COLA). All counties shall grant COLA's to their IHSS providers at the percentage appropriated in this Budget Act. Counties may grant COLA's in excess of this percentage; however, state funding		

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is not available for those amounts in excess of the COLA percentage appropriated in this Budget Act.

For purposes of this act, COLA means all wage and benefit increases not including merit, step, or longevity salary adjustments, or employment taxes.

The department shall allocate the COLA appropriation to the counties by applying the COLA percentage appropriated in this Budget Act to the amounts allocated as basic IHSS program costs. A county's COLA allocation may be increased only if the amounts allocated by the department for basic IHSS program cost is increased and the department can reallocate COLA funds from counties which have a projected COLA surplus. All COLA money not encumbered during the period covered by this act shall revert to the General Fund.

Except as specified below, the COLA shall apply to all IHSS provider wages and benefits earned beginning July 1, 1985. If, for any reason, payment cannot begin on the next scheduled payday after July 1, 1985, retroactive paychecks shall be provided back to July 1, 1985.

Wage and benefit packages for IHSS program providers who provide services through a county/private provider company shall be negotiated through the free competition/competitive bid and collective bargaining processes. If at any time during 1985–86, individual contracts are renegotiated or renewed, counties may grant contract providers a higher COLA than the percentage granted by the state. However, state funding shall not be available for any COLA in excess of the percent appropriated by this Budget Act and granted to providers on July 1.

3. Of the $20,300,000 dollars within Item 5180-181-001(b), for Child Welfare Services, $200,000 shall be reserved for eleven Indian Services Centers to provide Child Welfare Services to Indian children.

5180-181-890—For local assistance, Department of Social Services, for transfer to Item 5180-181-001, payable from the Federal Trust Fund, to be transferred to and in augmentation of programs, upon approval of the Department of Finance, effective July 1, 1985 124,426,000

5190-001-142—For support of California Health Facilities Commission, in accordance with the provisions of Part 1.7 (commencing with Section 440) of Division 1 of the Health and Safety Code, payable from the California Health Facilities Commission Fund 1,935,000

Schedule:

(a)	100000-Personal Services	1,388,000
(b)	300000-Operating Expenses and Equipment	600,000
(c)	Reimbursements	−53,000

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Provisions:

1. In adopting its assessment fee rates for hospitals and long-term care facilities, the commission shall update its expenditures and revenue projections based on the most recent information available and shall provide for a contingency reserve not to exceed $200,000.

YOUTH AND ADULT CORRECTIONAL AGENCY

5240-001-001—For support of Department of Corrections 827,568,000

Schedule:

(a) 21-Institution Program	769,351,000
(b) 31-Community Correctional Program	83,781,000
(c) 41.01-Administration	76,119,000
(d) 41.02-Distributed Administration	−76,281,000
(e) Reimbursements	−9,944,000
(f) Amount payable from the Federal Trust Fund (Item 5240-001-890)	−208,000
(g) Amount payable from the Inmate Welfare Fund (Item 5240-001-917)	−12,867,000
(h) Amount payable from the New Prison Construction Bond Act of 1981 (Item 5240-001-723)	−2,383,000

Provisions:

1. Funds appropriated to accommodate projected institutional population levels in excess of those which actually materialize, if any, shall revert to the General Fund, unless the encumbrance of such funds is authorized by the Department of Finance, not sooner than 30 days after notification in writing of the necessity therefor, to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee.
2. None of the funds appropriated by this item shall be used to pay court monitor and associated costs resulting from the case of Toussaint v. McCarthy (United States District Court, Northern District of California) or any successor actions.
3. Notwithstanding any other provision of law, at least 30 days prior to entering into any contract, or amending any existing contract, by the Department of Corrections for program management services, the director shall submit the proposed contract to the Department of Finance and the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or prior to whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine. Program management services include all services provided by the department's capital expenditure managers

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	(Kitchell CEM or any successor) to assist in the planning and implementation of the department's new prison construction program.	
	4. The positions and associated funds to staff the five new prisons in 1985–86 are approved and authorized. No positions may be filled prior to 30-day advance notification to the Department of Finance and the Joint Legislative Budget Committee, the fiscal committees, and the Joint Prison Committee. The approval of these positions in this act is not approval of any specific staffing pattern for these institutions, which must, under current law, be approved by the Joint Prison Committee.	
	5. Of the amount appropriated in Schedule (a), $12,951,000 is available for contracted inmate medical services. Funds not used for this specific purpose shall revert to the General Fund.	
	6. Of the amount appropriated in Schedule (b) of this item, $46,296,000 is available for felon supervision. Direct program costs and variable administrative costs not used for this specific purpose shall revert to the General Fund.	
	7. The positions and associated funds to staff the five new prisons in the 1985–86 fiscal year are approved and authorized. No positions may be filled prior to 30-day advance notification to the Department of Finance and the Joint Legislative Budget Committee, the legislative fiscal committees, and the Joint Prison Committee. The approval of these positions in this act is not approval of any specific staffing pattern for these institutions, which must, under current law, be approved by the Joint Prison Committee. The following positions are authorized and approved in this act: (a) California State Prison, Sacramento—2. (b) California State Prison, San Diego—24. (c) Northern California Women's Facility—14. (d) California Medical Facility-South—696. (e) Southern Maximum Security Complex—481. These positions are for prison staffing at rated design capacity only. These positions do not include additional temporary positions or positions needed due to overcrowding, which are approved in this act for the California Medical Facility-South (275) and the Southern Maximum Security Complex (95). No positions for other new institutions are approved.	
	8. Of the amount appropriated in Schedule (b), $500,000 shall reimburse Item 4440-001-001 to support a pilot project in Los Angeles County designed to serve up to 100 state prison parolees in Department of Mental Health intensive aftercare and supervision services such as currently	

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are provided to offenders returning to the community from state hospitals. The project shall begin no later than January 1, 1986. The Departments of Corrections and Mental Health shall jointly conduct a study of the effectiveness of the project and report the findings to the Joint Legislative Budget Committee and legislative fiscal committees by December 1, 1986.	
5240-001-723—For support of the Department of Corrections, for transfer to Item 5240-001-001, payable from the New Prison Construction Bond Act of 1981	2,383,000
5240-001-890—For support of Department of Corrections, for transfer to Item 5240-001-001, payable from Federal Trust Fund	208,000
5240-001-917—For support of Department of Corrections, for transfer to Item 5240-001-001, payable from the Inmate Welfare Fund	12,867,000
5240-011-001—For maintenance and repair of family visiting units, Support, Department of Corrections, Institutions program	200,000
Provisions:	
1. Funds appropriated in this item shall be used for maintenance and repair projects and equipment purchase for family visiting units at institutions as identified in the department's April 15, 1985, review of the units' needs. Funds in excess of the amounts needed for these repairs and purchases shall be available for other special repair projects within the department.	
5240-101-001—For local assistance, Department of Corrections	20,143,000
Schedule:	
(a) 21-Institution Program 5,340,000	
(b) 31-Community Correctional Program 14,803,000	
Provisions:	
1. Of the amount appropriated within Schedule (a), $394,000 is provided to pay the transportation costs of prisoners to and between state prisons, including the return of parole violators to prison and for the conveying of persons under provisions of Division 3 (commencing with Section 3000) of the Welfare and Institutions Code and the Western Interstate Corrections Compact (commencing with Section 11190 of the Penal Code), in accordance with the provisions of Section 26749 of the Government Code. Provided, that claims made against this item of appropriation shall be filed by the local jurisdictions within six months after the end of the month in which such transportation costs were incurred; and provided further, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.	

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	Provided further, that claims filed by the counties directly with the State Controller may be paid by the Controller.	
	2. Of the amount appropriated within Schedule (b), $14,803,000 is available to reimburse counties for the cost of detaining state parolees pursuant to Section 4016.5 of the Penal Code, Department of Corrections provided, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.	
	3. The amount of $1,674,000 is appropriated from the General Fund for expenses of returning fugitives from justice from outside the state, in accordance with the provisions of Sections 1389, 1549 and 1557 of the Penal Code provided, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller, and any restitution received by the state for such expenses be credited to the appropriation of the year in which the State Controller's receipt is issued.	
	Provided further, that claims filed by the counties directly with the State Controller may be paid by the Controller.	
	4. Of the amount within Schedule (a), $3,272,000 is available to pay court costs and county charges, payable under Sections 4700 and 4700.5 of the Penal Code, in connection with coroners' services and trials of inmates charged with commission of a crime or crimes while incarcerated in a state institution or prison under the Department of Corrections provided, that claims filed payable under Section 6005 of the Penal Code may be paid by the Department of Corrections from funds appropriated by this item. Provided further, that claims made against this item of appropriation shall be filed by the local jurisdictions within six months after the end of the month in which such court costs and county charges were incurred; and provided further, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.	
	Provided further, that claims filed by the counties directly with the State Controller may be paid by the Controller.	
5240-301-036—For Capital Outlay, Department of Corrections, payable from the Special Account for Capital Outlay		7,692,000
Schedule:		
(1) 61.03.501-California Correctional Center-Increase Sewage Plant Storage Capacity—Preliminary Plans and Working Drawings		84,000
(2) 61.03.505-California Conservation Center-Enlarge Visiting Room—Preliminary Plans and Working Drawings		28,000

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(3) 61.05.501-Correctional Training Facility—Expand Domestic Water System-Construction	581,000
(5) 61.06.501-Deuel Vocational Institution-Electrical Power Survey	40,000
(6) 61.08.501-California Institution for Men-Expand/Rehabilitate Sewage Treatment Plant—Preliminary Plans Working Drawings and Construction	2,500,000
(8) 61.08.515-California Institution for Men-Records and Board Room Building—Preliminary Plans and Working Drawings	70,000
(10) 61.13.505-California Institution for Women-Purchase Additional Sewage Capacity	319,000
(11) 61.14.010-Minor Projects	1,971,000
(12) 61.16.501-Sierra Conservation Center-Renovate Surgical Area for Administrative Segregation—Preliminary Plans and Working Drawings	68,000
(13) 61.05.300-Correctional Training Facility-Primary Electrical Distribution System-Preliminary plans	19,000
(14) 61.05.350-Correctional Training Facility-Secondary Electrical Distribution System—Preliminary Plans	12,000
(15) 61.01.500—Emergency Modifications to accommodate overcrowding	2,000,000

Provisions:

1. Funds appropriated for increasing Sewage Plant Storage Capacity at Susanville, category (1) shall not be allocated unless the Regional Water Quality Control Board issues an order stating that the proposed improvements are needed to satisfy discharge requirements. The board's assessment of the need shall consider improvements currently under construction. The funds included in category (1) shall not be authorized for expenditure or encumbrance sooner than 30 days after the Director of Corrections submits in writing (a) the board's order and (b) the department's assessment of how this project addresses any remaining plant deficiencies cited in the board's order, to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee. Improvements shall be limited to those necessary to meet the Water Quality Control Board's requirements.

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2. Prior to expenditure of any funds appropriated for Expansion/Rehabilitation of the Sewage Treatment Plant at Chino, category (6), the Director of Corrections shall submit a report to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee that indicates (a) the department's efforts to secure grant funds for the project and (b) the basis for the director's determination that grant funds are not available to partially fund the project. No amount in excess of the state's share of a grant eligible project shall be expended, if this project is eligible for grant funding.		
3. The contract entered into by the Department of Corrections to increase sewage plant capacity available to the California Institution for Women, category (10) shall include a provision to require the Chino Basin Municipal Water District to repurchase the additional capacity at market value if, in the future, the capacity is not needed to serve the institution.		
4. Prior to expenditure of any funds for Emergency Modifications to Accommodate Overcrowding, category (15), the Department of Finance shall provide notification to the Legislature, pursuant to the provisions of Section 28.00, of the following: (a) plan of expenditure, (b) schedule of activities, (c) project scope, and (d) implementation plan for each project at each prison.		
5240-301-723—For Capital Outlay, Department of Corrections, payable from the New Prison Construction Fund		7,037,000
Schedule:		
(1) 61.01.600-Capital Program Management	1,500,000	
(2) 61.01.007-General and Advance Planning/Studies	200,000	
(3) 61.19.501-Northern California Women's Facility, San Joaquin County-Equipment	1,980,000	
(4) 61.04.004-Southern Maximum Security Complex, additional moveable equipment	613,000	
(5) 61.01.600-Statewide Fire and Life Safety Improvements, Phase I-Preliminary Plans and Working Drawings	2,000,000	
(6) 61.03.200-California Correctional Center-Preliminary Plans and Working Drawings	11,000	
(7) 61.04.200-California Correctional Institution-Preliminary Plans and Working Drawings	12,000	
(8) 61.05.200-Correctional Training Facility-Preliminary Plans and Working Drawings	119,000	

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(9) 61.06.200-Deuel Vocational Institution-Preliminary Plans and Working Drawings		74,000
(10) 61.07.200-Folsom State Prison-Preliminary Plans and Working Drawings		21,000
(11) 61.08.200-California Institution for Men-Preliminary Plans and Working Drawings		199,000
(12) 61.09.200-California Medical Facility-Preliminary Plans and Working Drawings		38,000
(13) 61.10.400-California Men's Colony-Preliminary Plans and Working Drawings		72,000
(14) 61.12.400-San Quentin State Prison-Preliminary Plans and Working Drawings		33,000
(15) 61.13.200-California Institution for Women-Preliminary Plans and Working Drawings		13,000
(16) 61.15.200-California Rehabilitation Center-Preliminary Plans and Working Drawings		102,000
(17) 61.16.200-Sierra Conservation Center-Preliminary Plans and Working Drawings		50,000

Provisions:

1. Funds appropriated by this item in category (2) shall be available only for planning, and studies concerning projects at existing institutions and new prison projects for which no appropriation for planning has been provided. The Director of Corrections shall submit a post-audit report of actual expenditures to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee no later than September 15, 1986.

5240-490—Reappropriation, Department of Corrections. Notwithstanding any other provisions of law, the unencumbered balances of the appropriations provided in the following citations are reappropriated, on the effective date of this act, for the purposes provided for in those appropriations and any additional purposes provided for in this item, and shall be available for expenditure until June 30, 1986:

723—New Prison Construction Fund

Budget Act of 1982:

Item 5240-301-723(6)—61.06.004-Deuel Vocational Institute: Remodel Locking Devices—Construction

Item 5240-301-723(14)—61.01.014-New Camps: Land Acquisition, EIR, Initial Studies, Schematics, Preliminary Plans, Working Drawings and Construction

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Item 5240-301-723(17)—61.12.006-San Quentin State Prison: Install Dumbwaiters in Lockup Units—Preliminary Plans, Working Drawings and Construction

Item 5240-311-723(4)—61.01.002-Various-Temporary Housing Units—Acquisition and Construction

724—1984 Prison Construction Fund

Item 5240-301-724, Budget Act of 1984

(1) 61.16.011-Sierra Conservation Center: Upgrade Water Distribution System—Preliminary Plans, Working Drawings and Construction

(2) 61.06.005-Deuel Vocational Institution: Rehabilitate Sewage Treatment Plant—Preliminary Plans, Working Drawings and Construction

(3) 61.05.033.841-Correctional Training Facility: Sewage Treatment Plant Expansion—Construction

(5) 61.06.006-Deuel Vocational Institution: Flood Control—Preliminary Plans, Working Drawings and Construction

(7) 61.06.007-Deuel Vocational Institution: Domestic Water Supply—Preliminary Plans and Working Drawings

(9) 61.05.008-Correctional Training Facility: Replace Food Service Bldg—Construction

(15) 61.15.011-California Rehabilitation Center: Security Lighting—Preliminary Plans, Working Drawings and Construction

(16) 61.12.018-San Quentin State Prison: Ranch Dormitory—Preliminary Plans, Working Drawings and Construction—Provided that, if the Department is unable to construct all three dorms within the appropriation, a 30-day notification shall be submitted to the Joint Legislative Budget Committee to reduce the scope of the project accordingly.

(32) 61.03.018-California Correctional Center: Catwalks on Roof—Preliminary Plans, Working Drawings and Construction

(37) 61.05.404-Correctional Training Facility: Recreation Yard Lighting—Preliminary Plans, Working Drawings and Construction

(39) 61.12.015-San Quentin State Prison: Security Improvements, Ranch Area—Preliminary Plans, Working Drawings and Construction—Provided that these funds shall be used for the relocation and remodeling of the dental clinic pursuant to Marin vs. Denton

(40) 61.15.407-California Rehabilitation Center: Acquire and Connect New Sewage Treatment Plant Capacity

Item Amount

(41) 61.15.015-California Rehabilitation Center: Modify Perimeter Gunposts—Preliminary Plans, Working Drawings and Construction

(42) 61.15.016-California Rehabilitation Center: Security Enclosures and Lighting—Preliminary Plans, Working Drawings and Construction

5240-491—Reappropriation, Department of Corrections. Notwithstanding any other provisions of law, the unencumbered balances of the appropriations provided in the following citations are reappropriated, on the effective date of this act, for the purposes provided for in those appropriations and any additional purposes provided for in this reappropriation, and shall be available for expenditure until June 30, 1987:

723—New Prison Construction Fund

California Institution for Women—Frontera, San Bernardino County: Ch 326 Stats 1982, Item 5240-301-723 (15) 61.13.004-Special Housing Unit—EIR, Initial Studies, Preliminary Plans, Working Drawings and Construction

California Medical Facility, South—Vacaville, Solano County: Ch 1743 Stats 1984, Section 6(a)—61.09.010.050—One 1200-Bed Level (II) Facility—Construction Ch. 958, Stats 1983, Section 10(d), as Amended by Ch 1743 Stats 1984, Section 5.5:

(1) 61.09.010-One 1200-Bed (Levels I and II) Facility—Preliminary Plans and Working Drawings

(2) 61.09.011-One 1200-Bed (Level III) Facility—Preliminary Plans, Working Drawings and Construction

(3) 61.09.012-Long Lead Items

California State Prison—Avenal, Kings County: Ch 958 Stats 1983, Section 10 (f), as Amended by Ch 1743 Stats 1984, Section 5.5:

(1) 61.17.001-One 3000-Bed (Level I and II) Facility—Site Acquisition Studies, Master Plan, Preliminary Plans and Working Drawings

(2) 61.17.002-Long Lead items

California State Prison—Folsom, Sacramento County: Ch. 324, Stats 1983, Item 5240-311-723 (2) 61.07.004.001-Maximum Security Units A, B and C—Working Drawings and Construction

Ch 326 Stats 1982, Item 5240-301-723 (2.1) 61.07.005-Construct Site Development and Utilities

California State Prison—Ione, Amador County: Ch 958 Stats 1983, Section 10(e), as Amended by Ch 1743 Stats 1984, Section 5.5

(1) 61.18.021-One 1200-Bed (Levels I and II) Facility—Studies, Site Acquisition, Preliminary Drawings and Construction

(2) 61.18.022-Long Lead Items

(3) 61.18.023-Offsite Development and Utilities—Preliminary Plans and Working Drawings

Item		Amount
	California State Prison—Los Angeles County Ch 326, Stats 1982, Item 5240-301-723 (9), 61.20.008-Land Acquisition, EIR, Initial Studies, Planning, Master Planning and Schematics—not to exceed $1,300,000	
	California State Prison—Riverside County: Ch 326 Stats 1982, Item 5240-301-723 (10), 61.22.010-Land Acquisition, EIR, Initial Studies, Planning, Master Planning and Schematics—not to exceed $650,000	
	California State Prison—San Diego County: Ch 1743 Stats 1984, Section 6(b), 61.11.005.010-California State Prison, San Diego: Offsite Development and Utilities, Preliminary Plans, Working Drawings and Construction; Ch 324, Stats 1983, Item 5240-311-723	
	(6) 61.11.002.015-Medium Security Units and Minimum Security Support Service Complex—Preliminary Plans and Working Drawings	
	(7) 61.11.003.015-Site Development and Utilities —Preliminary Plans, Working Drawings and Construction	
	(7.2) 61.11.05-Offsite Development and Utilities —Preliminary Plans, Working Drawings and Construction	
	Ch 326 Stats 1982, Item 5240-301-723 (3), 61.11.002-Medium Security Units and Minimum Support Service Complex—Preliminary Plans and Working Drawings	
	Northern California Women's Facility, San Joaquin County: Ch 324 Stats 1983, Item 5240-311-723 (12), 61.19.015-Initial Studies, EIR, Programming, Master Planning, Schematics and Preliminary Plans for Total Facility	
	Southern Maximum Security Complex—Tehachapi, Kern County: Ch 326 Stats 1982, Item 5240-301-723:	
	(4) 61.04.002-Unit IVA and IVB—Working Drawings and Construction	
	(4.1) 61.04.003-Support Services Facilities—Construction	
724—1984 Prison Construction Fund		
	California Medical Facility—South, Vacaville, Solano County: Ch 258 Stats 1984, Item 5240-311-724:	
	(10) 61.09.500-Construct Facilities and Offsite Development/Utilities for Level II/III	
	California State Prison—Avenal, Kings County: Ch 258, Stats 1984, Item 5240-311-724	
	(4) 61.17.001.050-Avenal—3,000 Bed Level I/II Facility—Site Development, Construction	
	(5) 61.17.002.050-Avenal—3,000 Bed Level I/II Facility—Long Lead Items	
	California State Prison—Folsom, Sacramento County: Ch 258, Stats 1984, Item 5240-311-724	
	(1) 61.07.004.841-California State Prison at	

Item	Amount
Folsom—Minimum Security Support Services Complex—Construction California State Prison—Ione, Amador County: Ch 258, Stats 1984, Item 5240-311-724: (12) 61.18.015-California State Prison, Amador—1200 Level I/II Bed Facility—Additional Funding, Offsite Development and Utilities, Preliminary Plans, Working Drawings and Construction California State Prison—San Diego County: Ch 258, Stats 1984, Item 5240-311-724: (17) 61.11.500.841-Level I Support Services Complex and Level III Facilities—Construction Northern California Woman's Facility—San Joaquin County: Ch 258, Stats 1984, Item 5240-301-724: (45) 61.19.010.841-Northern California Women's Facility, San Joaquin County—Design Development and Working Drawings (46) 61.19.010.842-Northern California Women's Facility, San Joaquin County—Total Facility—Working Drawings Ch 258 Stats 1984, Item 5240-311-724 (15), 61.19.020-Northern California Women's Facility, San Joaquin County—Total Facility—Construction	

Provisions:

1. Notwithstanding the provisions of Section 6.50, funds may be transferred, with the approval of the Department of Finance, between the projects for each new institution within the originating bond fund as specified above. No funds appropriated for any institution may be transferred to another institution. The Director of Finance shall notify, in writing, the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, 30 days or such lesser time as the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine, prior to any such transfer.
2. In addition to the purposes established in prior statutes, reappropriations identified herein shall be available for the additional purposes, as necessary, of acquisition, site studies and suitability reports, environmental impact reports, master planning, architectural programming, schematics, preliminary plans, working drawings, construction and long lead items, excluding the reappropriations for California State Prison—Riverside County and California State Prison—Los Angeles County.

Item		Amount
	3. Notwithstanding provisions 1 and 2, funds reappropriated for site development and construction of the California State Prison Kings County—Avenal shall not be available for expenditure until resolution of the Sagaser v. Director of Corrections suit and the department is ready to proceed on the currently designated site.	
5240-495—Reversion, Department of Corrections. Notwithstanding any other provision of law, as of June 30, 1985, the undisbursed balance in excess of unliquidated encumbrances, including any such balance in the Architectural Revolving Fund, of the appropriations provided in the following citations, shall revert to the unappropriated surplus of the fund from which the appropriation was made:		
724—1984 Prison Construction Fund		
(1) Item 5240-301-724, Budget Act of 1984.		
(38) 61.08-California Institution for Men-Upgrade Sewage Treatment Plant—Preliminary Plans, Working Drawings and Construction.		
5240-496—Reversion, Department of Corrections. Notwithstanding any other provision of law, as of June 30, 1985, the unencumbered balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the fund from which the appropriation was made:		
723—New Prison Construction Fund Ch 1743, Stats 1984, Section 6 (c) CSP, Riverside:		
(1) 61.22.800-Additional Funding—Preliminary Plans and Working Drawings		
724—1984 Prison Construction Fund: Budget Act of 1984, Item 5240-311-724: CSP, Adelanto:		
(2) 61.02.002.050-Site Development, Construction		
(3) 61.02.002.002-Long Lead Items		
5430-001-001—For support of Board of Corrections		390,000
Schedule:		
(a) 11-Standards for Detention Facilities	390,000	
(b) 12-County Jail Construction Financing Program	762,000	
(c) 21-Standards and Training for local officers	1,276,000	
(d) Program 31.01-Administration	412,000	
(e) Program 31.02-Distributed Administration	−412,000	
(f) Amount payable from the Corrections Training Fund (Item 5430-001-170)	−1,276,000	
(g) Amount payable from the County Jail Capital Expenditure Fund (Item 5430-001-725)	−762,000	

Item		Amount
5430-001-170—For support of Board of Corrections, for transfer to Item 5430-001-001, payable from Corrections Training Fund		1,276,000
5430-001-725—For support of Board of Corrections, for transfer to Item 5430-001-001, payable from County Jail Capital Expenditure Fund, Bond Act of 1981		762,000
5430-101-170—For local assistance, Board of Corrections, payable from Corrections Training Fund		9,250,000
5430-101-725—For local assistance, Board of Corrections, payable from the County Jail Capital Expenditure Fund, Bond Act of 1981		124,450,000
5440-001-001—For support of Board of Prison Terms, Program 10		6,684,675
5450-001-001—For support of Youthful Offender Parole Board, Program 10		2,542,000
5460-001-001—For support of Department of the Youth Authority		203,874,000
Schedule:		
(a) 10-Prevention and Community Corrections	3,671,000	
(b) 20-Institutions and Camps	186,768,000	
(c) 30-Parole Services	25,579,000	
(d) 50.01-Administration	12,016,000	
(e) 50.02-Distributed Administration	−11,823,000	
(f) Reimbursements	−11,374,000	
(g) Amount payable from the Federal Trust Fund (Item 5460-001-890)	−963,000	
Provisions:		
1. Payments made to counties for detaining wards from department conservation camps shall not exceed the approved county rates established under Section 1776 of the Welfare and Institutions Code.		
5460-001-890—For support, Department of the Youth Authority, for transfer to Item 5460-001-001, payable from the Federal Trust Fund		963,000
5460-101-001—For local assistance, Department of the Youth Authority		70,525,000
Schedule:		
(a) 10-Prevention and Community Corrections	68,916,000	
(b) 20-Local Government, Transportation of Wards	95,000	
(c) 30-Assistance to Counties for Detention of Youth Authority Parolees	1,514,000	
Provisions:		
1. Of the amount appropriated within Schedule (a), $2,284,000 is available to contract with public or private agencies engaged in prevention of delinquency, as authorized by Article 5.5 (commencing with Section 1790) and Article 10 (commencing with Section 1900) of Chapter 1 of Division 2.5 of the Welfare and Institutions		

Item		Amount
Code, Department of the Youth Authority.		
2. Of the amount appropriated within Schedule (a), $66,632,000 is provided to assist to counties in the operation of programs pursuant to the County Justice System Subvention Program in accordance with Article 7 (commencing with Section 1805) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code, Department of the Youth Authority. Notwithstanding any other provision of law, any county receiving funds from the County Justice System Subvention Program shall use those funds in the 1985–86 fiscal year for purposes specified in Section 1806 of the Welfare and Institutions Code.		
3. Of the amount appropriated within Schedule (b), $95,000 is available to pay the transportation costs of persons committed to the Department of the Youth Authority to or between its facilities, including the return of parole violators; provided, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.		
4. Of the amount appropriated within Schedule (c), $1,514,000 is available to reimburse counties for the cost of the detention of Youth Authority parolees, who are detained on alleged parole violations, pursuant to Section 1776 of the Welfare and Institutions Code, provided, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.		
5460-301-036—For Capital Outlay, Department of the Youth Authority, payable from the Special Account for Capital Outlay		4,721,000
Schedule:		
(1) 60.52.010-El Paso de Robles School-New Maintenance Building—Construction	1,740,000	
(2) 60.52.015-El Paso de Robles School-Youth Conservation Camp —Preliminary Plans	85,000	
(3) 60.58.010-Ventura School-Enlarge Visiting Room—Preliminary Plans and Working Drawings	49,000	
(4) 60.71.005-Fenner Canyon Camp-Replace Barracks—Preliminary Plans	52,000	
(5) 60.73.005-Oak Glen Camp, Phase II—Preliminary Plans, Working Drawings and Construction	692,000	
(6) 60.90.010-Minor Projects	1,802,000	
(7) 60.02.015-Preston School of Industry Reconstruct Infirmary/Pre-Forestry Building—Preliminary Plans and Working Drawings	72,000	

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(8) 60.54.015-Fred C. Nelles School-Living Unit and Education Facility—Environmental Impact Report and Preliminary Plans..... 229,000

Provisions:

1. The project to add 100 beds at Fred C. Nelles School, category (8), may be moved to Ventura if a preferable site is determined. The Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees in each house which consider appropriations, pursuant to Section 28.00, if the project is transferred according to this provision.

5460-490—Reappropriation, Department of the Youth Authority. Notwithstanding any other provisions of law, the unencumbered balance of the appropriation provided in the following citation is reappropriated on the effective date of this act, for the purposes provided for in the appropriation and any additional purposes provided for in this item, and shall be available for 036—Special Account for Capital Outlay

Item 5460-301-036, Budget Act of 1984:

(5) 60.54.005—Fred C. Nelles School-New Adjustment Center—Preliminary Plans and Working Drawings

EDUCATION

6100-001-001—For support of Department of Education 32,463,000

Schedule:

(a) 10-Instruction	26,559,000
(b) 20-Instructional Support	25,002,000
(c) 30-Special Programs	16,042,000
(d) 41.00-Executive Management and Special Services	8,240,000
(e) 42.01-Department Management and Special Services	24,856,000
(f) 42.02-Distributed Department Management and Special Services	−24,856,000
(g) Reimbursements	−3,880,000
(h) Amount payable from Federal Trust Fund (Item 6100-001-890)	−39,500,000

Provisions:

10-Instruction:

1. Notwithstanding Section 33403 of the Education Code, or any other provision of law, no funds appropriated pursuant to this act shall be used by the Department of Education to prepare evaluation reports on the following programs during the 1985–86 fiscal year:
   (a) Professional development and program improvement centers.
   (b) Indian education centers.
   (c) Alternative schools.

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(d) Bilingual teacher corps.

(e) Demonstration programs in reading and mathematics.

20. Instructional Support:

2. Of the funds transferred from Item 6100-001-890, an amount not to exceed $1,143,817 shall be available only for support of the California Assessment Program. The Director of Finance may authorize the augmentation of the amount available for this purpose, provided that such augmentation may not be authorized sooner than 30 days after the 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 not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

3. Of the funds included in this item, an amount not to exceed $2,370,987 shall be available only for support of the California Assessment Program. The Director of Finance may authorize the augmentation of the amount available for this purpose, provided that such augmentation may not be authorized 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 not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

4. Of the funds appropriated in this item, $750,000 shall be spent only for development and implementation of the Writing Skills Assessment, and only upon approval by the Department of Finance and the Joint Legislative Budget Committee. Prior to receiving approval to spend any funds for this purpose, the Department of Education shall submit a plan which provides for (1) phased-in implementation of the writing skills assessment, (2) evaluation of the long-term feasibility of using local teachers to score the exams, and (3) adequate staffing in the Department of Education. This plan shall also include projections of the costs of development and implementation of this examination over the next three years.

41-Executive Management and Special Services:

5. Of the funds appropriated in this item, $72,000 shall be utilized for California's participation in the Education Commission of the States.

Item	Amount
6. Of the funds appropriated in this item, $575,000 shall be available only for the state's defense costs in the Serrano litigation and shall be expended only upon the approval of the Director of Finance.	
7. Of the funds appropriated in this item, $100,000 shall be available for administrative costs associated with Project Work-Ability II.	
8. Of the funds appropriated in Schedule (d) of this item, $148,000 shall be for the purpose of conducting a teacher recruitment campaign. The campaign shall be conducted by a contractor selected through a competitive bidding process, with at least two bids required for the awarding of the contract. No elected public official shall appear in, or be the subject of, advertisements used in conducting this campaign.	
9. An interagency agreement shall be executed between the State Department of Education and the Office of the Legislative Analyst, which shall provide for the transfer of $300,000 of the amount appropriated in category (d) to the Office of the Legislative Analyst. The Office of the Legislative Analyst shall expend that amount, or as much thereof as may be necessary, for the purpose of contracting with an individual, group of individuals, firm, or organization deemed qualified and competent by the Legislative Analyst to study and develop recommendations concerning the management of the State Department of Education and for the purpose of paying any overhead costs associated with the supervision of the contract.	
10. $250,000 of the funds appropriated in this item and 1.5 positions authorized by this act shall be solely for the support of the Commission on School Governance and Management and only if an appropriate statute reauthorizes the commission beyond June 30, 1985.	
6100-001-178—For support of the Department of Education, Program 20—Instructional Support, for the purpose of conducting school bus driver instructor training as provided in Section 1204 of the California Administrative Code, payable from the Driver Training Penalty Assessment Fund	550,000
6100-001-305—For support of Department of Education, Program 30.30—Postsecondary Education, payable from the Private Postsecondary Education Administration Fund	892,000
Provisions:	
1. Funds provided by this item are for support of the Office of Private Postsecondary Education and the Private Postsecondary Education Council pursuant to Chapter 791, Statutes of 1981.	
6100-001-344—For support of Department of Education, Program 20—Instructional Support, payable from the State School Building Lease-Purchase Fund	647,000

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6100-001-687—For support of Department of Education, for the California State Agency for Donated Food Distribution, Program 30.50—Food Distribution, payable from the Donated Food Revolving Fund	26,844,000
6100-001-890—For support of Department of Education, for transfer to Item 6100-001-001 payable from the Federal Trust Fund	39,500,000

Provisions:

1. Of the funds appropriated in this item, $1,194,391 of the 1985–86 Federal Vocational Education Act funds shall be transferred to the community colleges by means of interagency agreements. These funds shall be used by the community colleges for the administration of vocational education programs.
2. The Department of Education shall allocate funds from this item for a project to assess the hazards of toxic substances in schools and disseminate this information to local school districts via the county offices of education. The Department of Education shall report to the Joint Legislative Budget Committee by November 1, 1985, regarding the status of this project.

6100-006-001—For support of Department of Education as allocated by the Department of Education to the State Special Schools 35,353,000

Schedule:

(a) 10-Instruction	39,747,000
(b) Reimbursements	−4,394,000

Provisions:

1. On or before January 15 of each year the Superintendent of each State Special School shall report to each district the number of pupils from that district that are attending a State Special School, and the estimated payment due on behalf of the district for those pupils pursuant to Education Code Section 59300. The State Controller shall withhold from the State School Fund in the first principal apportionment of that fiscal year the amount due from each school district as reported to the Controller by the Superintendent of Public Instruction. The amount withheld shall be transferred from the State School Fund to Item 6100-006-001 which supports the State Special Schools. The Superintendent of Public Instruction is authorized to adjust the estimated payments required after the close of the fiscal year by reporting to the State Controller the information needed to make the adjustment.

6100-007-001—For support of Department of Education as allocated by the Department of Education to the State Special Schools for student transportation allowances	529,000

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Provisions:
1. Funds appropriated in this item are in lieu of funds which would otherwise be transferred from the General Fund to Section A of the State School Fund in accordance with provisions of Sections 14007 and 41301.5 of the Education Code.

6100-011-001—For support of Department of Education, California State Library, Division of Libraries, and California Library Services Board 9,437,000

Schedule:
(a) 50-Library Services 10,945,000
(b) Reimbursements ..... −13,000
(c) Amount payable from the Federal Trust Fund (Item 6100-011-890) .. −1,495,000

Provisions:
1. Of the funds transferred from Item 6100-011-890 for preservation of historic California newspapers, the State Librarian shall utilize funds for microfilming newspapers now available in the State Library prior to purchasing commercially available newspapers.

6100-011-890—For support of Department of Education, for transfer to Item 6100-011-001, payable from the Federal Trust Fund 1,495,000

6100-015-001—For support of Department of Education instructional materials warehousing and shipping costs, Program 20.20.020—Instructional Materials Management and Distribution 271,000

Provisions:
1. Funds appropriated by this item are for transfer by the Controller, to the State Instructional Materials Fund, for allocation during the 1985–86 fiscal year, pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of Part 33 of the Education Code. These funds shall be transferred to the State Instructional Materials Fund by the Controller in amounts claimed by the Department of Education, and the remaining balance, if any, shall be transferred to the State Instructional Materials Fund on June 30, 1986.
2. Funds appropriated by this item for the Instructional Materials Management and Distribution Program shall be transferred for direct disbursement by the Department of Education from the State Instructional Materials Fund.

6100-021-001—For support, Department of Education Program 30.20—Child Nutrition 580,000

Provisions:
1. Notwithstanding Section 41312 of the Education Code, the funds appropriated in this item are in lieu of the apportionment of funds specified in Section 41353 of the Education Code, for state administrative expenses related to nutrition education projects.

Item		Amount
6100-025-001—For support of Department of Education as allocated by the Department of Education to the Federation of California Minority Radio Stations for educational programming		150,000
6100-101-001—For local assistance, Department of Education, for transfer to Section A of the State School Fund, Program 10.10—School Apportionments		6,725,098,000
Schedule:		
(a) Program 10.10.001.001—School Apportionments, for the purposes of Section 42238 of the Education Code	6,475,028,000	
(b) Program 10.10.001.002—School Apportionments, in addition to the amount appropriated in category (a) of this item, for the purposes of subdivision (f) of Section 42238 of the Education Code	15,541,000	
(c) Program 10.10.001.003—School Apportionments, for Small School District Transportation Aid, for the purposes of Section 42240 and Section 42240.1 of the Education Code	19,403,000	
(d) Program 10.10.001.004—School Apportionments, for Meals for Needy Pupils programs, for the purposes of Article 10.5 (commencing with Section 49550) of Chapter 9 of Part 27 of the Education Code	22,353,000	
(e) Program 10.10.001.005—School Apportionments, for apprentice programs, for the purposes of Section 8153 of the Education Code	2,461,000	
(f) Program 10.10.011—School Apportionments, for summer school programs, for the purposes of Section 42239 of the Education Code	60,996,000	
(g) Program 10.10.001.006—School Apportionments, for the purposes of Section 45023.4 of the Education Code	12,448,000	
(h) Program 10.10.001.007—School Apportionments, for the purposes of Article 8 (commencing with Section 46200) of Chapter 2 of Part 26 of the Education Code	105,325,000	
(i) For transfer to Schedule (dd) of Item 9685-101-001	11,543,000	

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Provisions:

1. Funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1985–86 fiscal year pursuant to Sections 14002, 14004, and 41301 of the Education Code, an amount as needed, in addition to sums accruing to Section A of the State School Fund from other sources for the purposes specified herein, for apportionment pursuant to Section 8153, Section 42238, Section 42239, and Section 42240.1 of the Education Code.
2. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item and the amounts appropriated in Item 6100-226-001 for transfer to this item shall be the maximum amount allocated for the purposes specified herein.
3. Notwithstanding Section 41241.2 of the Education Code, the Superintendent of Public Instruction shall allocate the funds appropriated in category (d) of this item, as augmented by transfers from Item 6100-226-001 of this act, in the following manner:
   (a) Add to each school district's revenue limit computed pursuant to Section 42238 of the Education Code for the 1985–86 fiscal year the amount computed in the 1984–85 fiscal year for Meals for Needy Pupils programs (Article 10.5 (commencing with Section 49550) of Chapter 9 of Part 27) multiplied by 1.06 and as adjusted for pupil participation.
4. In the event of a deficiency in the appropriation made in Schedule (a) of this item, or in Item 6100-106-001, the Superintendent of Public Instruction may transfer funds between this item and Item 6100-106-001 with the approval of the Director of Finance. The Superintendent shall adjust the apportionments made from funds appropriated for the purposes specified in Schedule (a) of this item and in Item 6100-106-001 so that the deficit factor applied to the funding entitlements is the same for each of the programs funded by such appropriations.
5. Notwithstanding Section 8154 of the Education Code, or any other provision of law, the funds specified in Schedule (e) of this item and Schedule (a) (5) of Item 6100-226-001 shall be the only funds available for the apprentice programs operated by K–12 school districts.

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6. Notwithstanding Section 8152 of the Education Code, each 60-minute hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code shall be reimbursed at the rate of $3.44 per hour. For purposes of this division, each hour of teaching time may include up to 10 minutes for passing time and breaks.

7. Notwithstanding any other provision of law, the county superintendent shall reduce the total revenue limit computed pursuant to Section 42238 of the Education Code by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from enactment of Chapter 330 of the Statutes of 1982, adjusted for any changes in those contributions resulting from subsequent changes in employer contribution rates.

The reduction shall be calculated as follows:

(a) Determine the amount of employer contributions which would have been made in the 1984–85 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1984–85 fiscal year.

(b) Subtract from the amount determined in paragraph (a) the greater of subparagraph (1) or (2):

(1) The amount of employer contributions which would have been made in the 1984–85 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately after the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1984–85 fiscal year.

(2) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1984–85 fiscal year.

(c) For purposes of this provision, employer contributions to the Public Employees' Retirement System for any of the following shall be excluded from the calculation specified above:

(1) Positions supported totally by federal funds which were subject to supplanting restrictions.

(2) Positions supported by funds received pursuant to Section 42243.6 of the Education Code.

(3) Positions supported, to the extent of employer contributions not exceeding $25,000 by any single educational

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agency, from a revenue source determined on the basis of equity to be properly excludable from the provisions of this subdivision by the Superintendent of Public Instruction with the approval of the Director of Finance.

(d) For accounting purposes, the reduction made by this provision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

8. In addition to other apportionments, the Superintendent of Public Instruction shall also allocate to districts one-half of salary increases granted to classified employees of a school district in the fiscal years 1980–81 through 1981–82, inclusive, by the board of supervisors of a city and county.

9. Notwithstanding subdivision (c) of Section 46201 of the Education Code, for, each school district which in 1984–85 received an apportionment pursuant to subdivision (a) of Section 46201 of the Education Code the county superintendent shall, in 1985–86, add to the district's base revenue limit per unit of average daily attendance the amount received in 1984–85 pursuant to subdivision (a) of Section 46201 of the Education Code divided by the sum of paragraphs (a) and (b).

(a) The district's average daily attendance for 1984–85 computed pursuant to Section 42238.5 of the Education Code.

(b) The units of average daily attendance in 1984–85 resulting from pupils attending schools funded pursuant to Article 4 (commencing with Section 42280) of the Education Code.

10. Notwithstanding subdivision (a) of Section 46200 of the Education Code, for, each school district which in 1984–85 received an apportionment pursuant to subdivision (a) of Section 46200 of the Education Code the county superintendent shall, in 1985–86, add to the district's base revenue limit per unit of average daily attendance the amount received in 1984–85 divided by the sum of paragraphs (a) and (b).

(a) The district's average daily attendance for 1984–85 computed pursuant to Section 42238.5 of the Education Code.

(b) The units of average daily attendance for 1984–85 resulting from pupils attending schools funded pursuant to Article 4 (commencing with Section 42280) of the Education Code.

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11. Notwithstanding any other provision of law to the contrary, for the 1985–86 fiscal year, prior to calculating the increase amount specified in Section 42287 of the Education Code, the Superintendent of Public Instruction shall increase the funding amounts specified in Sections 42281, 42282, and 42284 of the Education Code by the product of paragraphs (a) and (b).
    (a) The amount per unit of average daily attendance received by the district pursuant to Section 46200 of the Education Code in 1984–85.
    (b) The average daily attendance for each "necessary small school" or "necessary small high school" for which the district receives funding in the 1985–86 fiscal year pursuant to Sections 42281, 42282, and 42284 of the Education Code.
12. Notwithstanding any other provision of law to the contrary, for the 1985–86 fiscal year, prior to calculating the increase amount specified in Section 42287 of the Education Code, the Superintendent of Public Instruction shall increase the funding amounts specified in Sections 42281, 42282 and 42284 of the Education Code by the product of paragraphs (a) and (b).
    (a) The amount per unit of average daily attendance received by the district pursuant to Section 46201 of the Education Code in the prior fiscal year.
    (b) The average daily attendance for each "necessary small school" or "necessary small high school" for which the district receives funding in the 1985–86 fiscal year pursuant to Sections 42281, 42282 and 42284 of the Education Code.
13. Notwithstanding subdivision (b) of Section 42238 of the Education Code, the base revenue limit for the 1985–86 fiscal year shall be determined by adding to the base revenue limit for the 1984–85 fiscal year the following amounts:
    (a) The inflation adjustment specified in Section 42238.1 of the Education Code.
    (c) The amount computed pursuant to Provision 9 of this item.
    (d) The amount computed pursuant to Provision 10 of this item.
14. Notwithstanding subdivision (e) of Section 42238 of the Education Code, the base revenue limit per unit of average daily attendance for the purposes of Section 42238 of the Education Code shall be the amount calculated pursuant to Provision 13 of this item.

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15. Notwithstanding subdivision (b) of Section 46200 of the Education Code, for any school district which received an apportionment pursuant to subdivision (a) of Section 46200 of the Education Code and which offers less than 180 days of instruction in the 1985–86 fiscal year, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for 1985–86 by an amount attributable to the increase received pursuant to subdivision (a) of Section 46200, as adjusted.
16. Notwithstanding Section 42238.5 of the Education Code, the Tehachapi Unified School District may request the Superintendent of Public Instruction to convert the district's enrollment at the second principal apportionment to an annualized number of units of average daily attendance for the purpose of making apportionments pursuant to Section 42238 of the Education Code.
17. From the funds appropriated in Schedule (a) of this item, the Superintendent of Public Instruction shall allocate an amount pursuant to this provision by making the following computations for each school district:
    (a) For the 1984–85 fiscal year, the amount computed pursuant to subdivision (c) or (d), as appropriate, of Section 42238 of the Education Code utilizing the inflation adjustment prescribed by Section 42238.1 of the Education Code, plus the sum of the following:
        (1) The amount computed pursuant to subdivision (f) of Section 42238 of the Education Code;
        (2) The amount computed pursuant to Section 42238.7 of the Education Code, as it read in the 1984–85 fiscal year;
        (3) The amount computed pursuant to Section 42238.8 of the Education Code; and
        (4) The amount computed pursuant to Section 45023.4 of the Education Code;
        (5) The amount computed pursuant to provision 13 of Item 6100-101-001 of the Budget Act of 1984.
    (b) For the 1985–86 fiscal year, the amount computed pursuant to subdivision (c) or (d), as appropriate, of Section 42238 of the Education Code utilizing the inflation adjustment prescribed by Section 42238.1 of the Education Code, plus the amount computed pursuant to subdivision (f) of Section 42238 of the Education Code.
    (c) Subtract the amount determined in paragraph (b) from the amount determined in

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paragraph (a). If the amount is greater than zero, except as provided in paragraph (d), the Superintendent of Public Instruction shall add the amount to the school district revenue limit.

(d) In no event shall the amount added to the school district's revenue limit pursuant to (c) allow any district to receive an amount per unit of average daily attendance which exceeds 1.4 times the statewide average revenue limit per unit of average daily attendance for that type of district.

18. Notwithstanding any other provision of law to the contrary, the Casmalia Elementary School District shall be deemed to have no less than 26 units of average daily attendance for the purpose of determining allowances pursuant to Article 4 (commencing with Section 42280) of Chapter 7 of Part 24 of the Education Code.

19. Notwithstanding any other provision of law to the contrary, for the 1985–86 fiscal year, prior to calculating the increase amount specified in Section 42287 of the Education Code, the Superintendent of Public Instruction shall increase the funding amounts specified in Sections 42281, 42282, and 42284 of the Education Code by the product of paragraphs (a) and (b).

(a) The amount per unit of average daily attendance received by the district pursuant to Section 45023.4 of the Education Code in the prior year.

(b) The average daily attendance for each "necessary small school" or "necessary small high school" for which the district receives funding in the 1985–86 fiscal year pursuant to Sections 42281, 42282, and 42284 of the Education Code.

20. In the event that the 1986 May Revision reestimate of expenditures for K–12 school district apportionments indicates that the amount appropriated in this item exceeds the amount required to fully fund those apportionments, the Director of Finance shall notify the Joint Legislative Budget Committee of the estimated amount that may be reduced from the appropriation in this item, but not to exceed a reduction of $30,000,000. No sooner than 10 days after notification, the Director of Finance shall certify the amount to the Controller. The Controller shall, within 30 days of the receipt of the certification, revert from the appropriation provided in this item to the unappropriated surplus of the General Fund an amount as certified by the Director of Finance.

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21. The funds appropriated in Schedule (i) of this item are for direct payment to the State Teachers' Retirement System for the purpose of funding the cost of increased service credit retirement benefits in lieu of the amount required pursuant to Section 22720 of the Education Code. On July 1, 1985, the Controller shall transfer the amount appropriated in Schedule (i) of this item to Schedule (dd) of Item 9680-101-001 of this act.

6100-101-814—For local assistance, Department of Education, for allocation by the State Controller in accordance with the provisions of Government Code Section 8880.5 as enacted by the voters in Proposition 37 at the November 1984 General Election .. 243,200,000

Provisions:

1. All funds received pursuant to Proposition 37 that are allocable to K–12 local education agencies pursuant to Section 8880.5 of the Government Code and that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item.

6100-101-890—For local assistance, Department of Education, Federal Block Grant payable from the Federal Trust Fund 40,444,000

Schedule:

(a) 10-Instruction 38,751,000

(b) 20-Instructional support..... 1,693,000

Provisions:

1. $275,000 of the funds appropriated by this item shall be allocated as a grant by the Superintendent of Public Instruction to a private, nonprofit foundation for the purpose of conducting a program on youth and the administration of justice in at least 150 school districts. These funds shall be allocated in four equal installments during the 1985–86 fiscal year on September 1, December 1, February 1, and May 1.
2. $300,000 of the funds appropriated by this item shall be allocated by the Superintendent of Public Instruction as awards to aid in the implementation of parenting education programs in school districts.
3. Up to $452,200 of the funds included in this item shall be available only for support of the California Assessment Program. The Director of Finance may authorize the augmentation of the amount available for this purpose, provided that such augmentation may not be authorized sooner than 30 days after the 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 not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in

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each instance determine.

4. It is the intent of the Legislature that funds from this item shall be allocated by the Superintendent of Public Instruction for the following Superintendent's priority projects: $200,000 to assist nonpublic schools; $122,000 for school improvement; $840,000 for curriculum development and training. Funds allocated from this item for curriculum development and training shall be used for the following purposes: (1) to develop guidelines to assist school districts in the development of local curriculum which sufficiently prepares all students in grades 1 through 8 for the course of study required for grades 9 through 12, pursuant to current law; and (2) curriculum training programs which shall assist classroom teachers to enable all pupils to master the basic curriculum in subject areas identified by the Superintendent of Public Instruction, and shall include strategies for strengthening local curriculum and instruction to meet the full range of abilities and diversity of the public school population. The Director of Finance may authorize the reduction or augmentation of the amount available for any of these purposes, or the redirection of these funds to any other priority project identified by the Superintendent of Public Instruction or the Legislature. This augmentation, reduction, or redirection may not be authorized sooner than 30 days after the 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 not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may determine in each instance.

6100-102-001—For local assistance, Department of Education for transfer to Section A of the State School Fund, for the purposes of Article 1 (commencing with Section 52300) of Chapter 9 of Part 28 of the Education Code, Program 10.10.004—School Apportionments, Regional Occupational Centers and Programs 193,897,000

Provisions:

1. Notwithstanding any provision of law to the contrary, the funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1985–86 fiscal year pursuant to Sections 14002 and 14004 of the Education Code, an amount as needed for apportionment pursuant to Article 1 (commencing with Section 52300) of Chapter 9 of Part 28 of the Education Code.

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2. For the 1985–86 fiscal year, the Superintendent of Public Instruction shall allocate the funds appropriated in this item in the following manner:
   (a) The Superintendent of Public Instruction shall certify for apportionment to each regional occupational center and program (ROC/P) an amount calculated as follows:
      (1) Calculate a revenue limit per unit of average daily attendance for each ROC/P in the 1985–86 fiscal year equal to the 1984–85 fiscal year base revenue limit per unit of average daily attendance for each ROC/P, increased by the percentage inflation adjustment provided in the Budget Act for the operation of ROC/Ps.
      (2) Calculate a 1985–86 fiscal year revenue limit per unit of average daily attendance for the purpose of funding ROC/P program growth equal to the 1984–85 fiscal year base revenue limit per unit of average daily attendance for the purpose of funding ROC/P program growth, increased by the percentage inflation adjustment provided in the Budget Act for the operation of ROC/Ps.
      (3) Multiply the ROC/P's 1985–86 fiscal year base revenue limit per unit of average daily attendance by the ROC/P's 1985/86 fiscal year annual average daily attendance that is equal to or less than the ROC/P's 1982/83 fiscal year base annual average daily attendance.
      (4) For annual average daily attendance in the 1985/86 fiscal year that is greater than the 1982–83 fiscal year base annual average daily attendance add to the amount computed pursuant to paragraph (3) of this subdivision an amount equal to the 1985–86 fiscal year base revenue limit per unit of average daily attendance computed for the purpose of funding ROC/P program growth multiplied by the difference in annual average daily attendance between the 1982–83 fiscal year base annual average daily attendance and the 1985–86 fiscal year annual average daily attendance.
   (b) Funds shall be allocated by the Superintendent of Public Instruction to ROC/Ps for average daily attendance served in the 1985–86 fiscal year based on the following order of priority:
      (1) Average daily attendance equal to or less than the 1982–83 fiscal year base average daily attendance.
      (2) Average daily attendance exceeding

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the average daily attendance specified in paragraph (1) of this subdivision, but less than or equal to the sum of the increase in average daily attendance allocated by the Superintendent of Public Instruction in the 1982–83 fiscal year for an ROC/P's pro rata share of funded growth average daily attendance and for ROC/Ps which had below average participation.

(3) Average daily attendance exceeding the sum of the average daily attendance specified in paragraphs (1) and (2) of this subdivision, but less than or equal to the sum of the increase in average daily attendance allocated by the Superintendent of Public Instruction in the 1983–84 fiscal year for an ROC/P's pro rata share of funded growth average daily attendance and for ROC/Ps which experienced annexation of service territory not previously included in the ROC/P during the 1982–83 fiscal year.

(4) Average daily attendance exceeding the sum of the average daily attendance specified in paragraphs (1) through (3) of this subdivision, but less than or equal to the sum of the increase in average daily attendance allocated by the Superintendent of Public Instruction in the 1984–85 fiscal year for a ROC/P's pro rata share of funded growth average daily attendance, for ROC/Ps which had below average participation, and for ROC/Ps which experienced annexation of service territory not previously included in the ROC/P during the 1982–83 fiscal year.

(5) Average daily attendance exceeding the sum of the average daily attendance specified in paragraphs (1) through (4) of this subdivision, but less than or equal to the increase in average daily attendance allocated by the Superintendent of Public Instruction in the 1985–86 fiscal year for an ROC/P's pro rata share of funded growth average daily attendance.

(6) Average daily attendance in the 1985–86 fiscal year exceeding the sum of the average daily attendance specified in paragraphs (1) through (5) of this subdivision.

(c) For the purpose of subdivision (b) of this provision, an ROC/P's pro rata share of funded growth average daily attendance shall be based on the percentage allowable

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growth in average daily attendance determined by the Superintendent of Public Instruction in each fiscal year for the purpose of allocating funds to ROC/Ps. An ROC/P's pro rata share of funded growth average daily attendance in each fiscal year shall not include excess growth in average daily attendance as determined by the Superintendent of Public Instruction. This exclusion shall apply without regard to the allocation of funds, if any, based on excess growth in average daily attendance for any fiscal year.

(d) In the event that the funding provided for the operation of ROC/Ps in the 1985–86 fiscal year is insufficient to fully fund those programs, then the Superintendent of Public Instruction shall reduce the amounts certified pursuant to subdivision (a) of this provision for each ROC/P based on equal amounts per unit of average daily attendance, consistent with the funding priorities for average daily attendance specified in subdivision (b) of this provision.

(e) The funds appropriated pursuant to this item shall be allocated by the Superintendent of Public Instruction to each school district or county office of education operating the ROC/P based on the school district's or county office of education's 1985–86 pro rata share of the funds being allocated.

(f) For purposes of Section 2558 of the Education Code, the Superintendent of Public Instruction shall deduct from the funding entitlement of each ROC/P operated by a county office of education any local revenue which would otherwise be deemed restricted and not available for expenditure in the current fiscal year pursuant to subdivision (d) of that section. The local revenue so deducted shall be utilized by the county office of education for support of the ROC/P. This subdivision is declaratory of existing law applicable during the 1984–85 fiscal year.

3. Because Chapter 482, Statutes of 1984 was chaptered after Chapter 268, Statutes of 1984, the Legislature's intent regarding the eligibility of Regional Occupational Centers and Programs for incentive funding for a longer instructional year under Section 46200 of the Education Code was not carried out. It is the intent of the Legislature that Regional Occupational Centers and Programs not be eligible for such incentive funding.

Notwithstanding any other provision of law to the contrary, none of the funds appropriated in this item are for the purposes of providing or continuing incentive funding for a longer in-

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structional year pursuant to Section 46200 of the Education Code.

4. Of the funds specified in this item an amount not to exceed $200,000 shall be allocated by the Superintendent of Public Instruction to fund additional units of average daily attendance, at the rate specified for growth average daily attendance in paragraph (4) of subdivision (a) of this provision in ROC/Ps which experienced annexation of service territory that prior to July 1, 1984 was not included in an ROC/P. Additional units of average daily attendance allocated to ROC/Ps pursuant to this provision shall in subsequent years become part of their growth average daily attendance.
5. Of the funds appropriated in this item, $3,500,000 are for the 1984–85 deficiency.

6100-106-001—For local assistance, Department of Education for transfer to Section A of the State School Fund, for the purposes of Sections 1909, 2553.5, and 2558 of the Education Code, Program 10.10.005—School Apportionments 81,341,000

Provisions:

1. Notwithstanding any provision of law to the contrary, the funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1985–86 fiscal year pursuant to Sections 14002 and 14004 of the Education Code, an amount as needed for apportionment pursuant to Section 8153 and Article 3 (commencing with Section 2550) of Chapter 12 of Part 2, of the Education Code, excluding amounts for Regional Occupational Centers and Programs operated by County Superintendents of Schools.
2. In the event of a deficiency in the appropriation made in schedule (a) of Item 6100-101-001, or in this item, the Superintendent of Public Instruction may transfer funds between Item 6100-101-001 and this item with the approval of the Director of Finance. The superintendent shall adjust the apportionments made from funds appropriated for the purposes specified in schedule (a) of Item 6100-101-001 and in this item, so that the deficit factor applied to the funding entitlements is the same for each of the programs funded by these appropriations.
3. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item and in subschedule (a)(9) of Item 6100-226-001 shall be the maximum amount allocated for the purposes of Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of the Education Code.

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6100-107-001—For local assistance, Department of Education, Program 20.70.040—Education Improvement Incentive Program for purposes of Article 2.5 (commencing with Section 54650) of Chapter 9 of Part 29 of the Education Code 15,000,000

Provisions:

1. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item shall be the maximum amount allocated for the purposes of Article 2.5 (commencing with Section 54650) of Chapter 9 of Part 29 of the Education Code.
2. In lieu of the percentage provided in Section 54657.7 of the Education Code, an amount not to exceed 1.5 percent of the amount appropriated in this item shall be used to pay grade 12 testing proctors and for administration.
3. Notwithstanding any other provisions of law, funds appropriated by this item may be expended by school districts without regard to fiscal year. Those expenditures shall be made in accordance with the provisions of Article 2.5 (commencing with Section 54650) of Chapter 9 of Part 29 of the Education Code.
4. Of the amount appropriated in this item, an amount not to exceed $400,000 may be used for the development of a revised California Assessment Program test instrument for grade 12. Expenditure of funds for this purpose shall be subject to approval by the Director of Finance, based upon a determination as to whether there are other funds available to the State Department of Education for the development of a revised California Assessment Program test instrument for grade 12 in the 1985–86 fiscal year.

6100-109-001—For local assistance, Department of Education, Program 20.60.020.002—Tenth Grade Counseling Program, for the purposes of Section 48431.7 of the Education Code 7,055,000

Provisions:

1. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item shall be the maximum amount allocated for the purposes of Section 48431.7 of the Education Code.

6100-111-001—For local assistance, Department of Education, for transfer to Section A of the State School Fund, Program 10.10—School Apportionments..... 274,637,000

Schedule:

(a) Program 10.10.006-School Apportionments, for the purposes of Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code 271,637,000

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(b) Program 10.10.008-School Apportionments, for the purposes of Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of the Education Code 3,000,000

Provisions:

1. Notwithstanding any provision of law to the contrary, the funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1985–86 fiscal year pursuant to Sections 14002 and 14004 of the Education Code, an amount as needed for apportionment pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 and Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of the Education Code.
2. Notwithstanding any provision of law to the contrary, the funds provided in category (a) of this item and in subschedule (a) (7) of Item 6100-226-001 shall be the only funds provided for the purposes of Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code, and shall be apportioned to school districts and county superintendents of schools pursuant to Section 41851 of the Education Code.
3. Notwithstanding any other provision of law to the contrary, the amount appropriated in category (b) of this item and in subschedule (a) (8) of Item 6100-226-001 shall be the maximum amount allocated for the purposes of Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of the Education Code.
4. Home-to-home transportation shall include transportation to and from related student services required by the individualized education programs for pupils with exceptional needs.
5. Notwithstanding Section 41851 of the Education Code, for the 1985–86 fiscal year, any school district or county superintendent which certifies to the Superintendent of Public Instruction at the end of the 1984–85 fiscal year that its approved transportation expenditures for the 1984–85 fiscal year were at least 95 percent of the state entitlement for the 1984–85 fiscal year based upon the prior fiscal year's approved transportation costs shall receive a transportation allowance in the 1985–86 fiscal year equal to the amount of the transportation entitlement for the 1984–85 fiscal year computed pursuant to Section 41851 of the Education Code, increased by the cost-of-living adjustment provided in Item 6100-226-001 of this act.

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6. Notwithstanding Section 41851 of the Education Code, for the 1985–86 fiscal year, any school district or county superintendent which certifies to the Superintendent of Public Instruction at the end of the 1984–85 fiscal year that its approved transportation expenditures for the 1984–85 fiscal year were less than 95 percent of the state entitlement for the 1984–85 fiscal year based upon the prior fiscal year's approved transportation costs shall receive a transportation allowance in the 1985–86 fiscal year equal to the certified percentage of the transportation entitlement for the 1984–85 fiscal year computed pursuant to Section 41851 of the Education Code plus 5 percent, the sum increased by the cost-of-living adjustment provided in Item 6100-226-001 of this act.

6100-114-001—For local assistance, Department of Education, for transfer to the State Controller, for reimbursement of claims received pursuant to Section 42243.6 of the Education Code, Program 10.10—School Apportionments 184,416,000

Provisions:

1. Funds appropriated by this item are for reimbursement of amounts necessary to pay costs of integration programs in districts initially mandated by the courts, as defined in Section 2205 of the Revenue and Taxation Code pursuant to any final court order issued after January 1, 1978.
2. The State Controller shall allocate funds appropriated in this item in accordance with the provisions of Section 42243.6. Pursuant to the provisions of Section 42243.8 of the Education Code, the State Controller shall reimburse claims, including claims for prior-year costs, received pursuant to Section 42243.6 of the Education Code only from funds appropriated specifically for that purpose by the Legislature. Any amount of claims in excess of the appropriation may be referred to the Commission on State Mandates for review and possible inclusion in a subsequent claims bill.
3. The State Controller shall forward to the Commission on State Mandates any claims received pursuant to Section 42243.6 of the Education Code for reimbursement of the costs of mandated activities not previously funded by the state. The Commission on State Mandates, upon receipt of such claims shall review all such claims to determine whether (1) a court, Federal, or initiative-enacted mandate exists, and (2) the costs are reasonable and necessary to satisfy the mandate. Based on its review the Board may include in an omnibus claims bill an amount for reimbursement of reasonable and necessary costs.

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6100-115-001—For local assistance, Department of Education, for transfer to the State Controller, for reimbursement of claims received pursuant to Section 42249 of the Education Code, (voluntary desegregation) Program 10.10—School Apportionments ..		7,000,000
6100-116-001—For local assistance, Department of Education, Program 20.60.030—School Improvement Program		202,924,000
Schedule:		
(a) 20.60.030.010—For the purpose of making allowances for kindergarten and grades 1 to 6, inclusive....	171,874,000	
(b) 20.60.030.020—For the purpose of making allowances for grades 7 to 12, inclusive	31,050,000	
Provisions:		
1. Funds appropriated by this item are for transfer by the Controller to Section A of the State School Fund for direct disbursement by the Department of Education in lieu of the appropriations made for the 1985–86 fiscal year pursuant to subdivisions (a) and (b) of Section 75 of Chapter 894 of the Statutes of 1977, for the purpose of making allowances for the School Improvement Program and notwithstanding the third paragraph of Section 87 of Chapter 894 of the Statutes of 1977, and pursuant to Article 4 (commencing with Section 52046) of Chapter 6 of Part 28 of the Education Code.		
2. The Department of Education shall allocate the funds scheduled above to each district eligible to receive an allowance on the basis of the per unit of average daily attendance amounts specified in subdivision (b) of Section 52046 of the Education Code, adjusted on a pro rata basis to conform to the amounts scheduled above.		
3. The Department of Education shall promote the legislative intent for equalized funding, as specified in Section 52048 of the Education Code, for kindergarten and grades 1 through 6 in the allocation of funds scheduled above.		
4. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item and in subschedule (n) of Item 6100-226-001 shall be the maximum amount allocated for the purposes of Chapter 6 (commencing with Section 52000) of Part 28 of Division 4 of the Education Code.		
6100-118-001—For local assistance, Department of Education, Program 10.70—Vocational Education in lieu of the amount which would otherwise be appropriated pursuant to subdivision (b) of Section 19632 of the Business and Professions Code		500,000

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6100-119-001—For local assistance, Department of Education, for the purposes of Article 2.3 of Part 27 (commencing with Section 48643) and Chapter 6 (commencing with Section 58800) of Part 31 of the Education Code and Section 903.7 of the Welfare and Institutions Code, to be allocated according to the following schedule:

Program 20.40-Supplementary Program Services.. 2,782,000

Schedule:

(a) 20.40.060-Instructional Support—Foster Youth Services..... 782,000

(c) 20.40.090-Specialized Secondary Programs 2,000,000

Provisions:

2. Notwithstanding any other provision of law to the contrary, the amount appropriated in category (c) shall be the maximum amount allocated for the purposes of Chapter 6 (commencing with Section 58800) of Part 31 of the Education Code.

6100-121-001—For local assistance, Department of Education, Program 10.30.070 Economic Impact Aid .. 187,502,000

Provisions:

1. Funds appropriated by this item for the Economic Impact Aid Program are for transfer by the State Controller to Section A of the State School Fund for direct disbursement by the Department of Education, for the purposes of the Economic Impact Aid Program, pursuant to Chapter 1 (commencing with Section 54000) of Part 29 of the Education Code. $17,073,000 of the funds in excess of $170,429,000 shall be allocated by the Superintendent of Public Instruction, pursuant to Section 54041 of the Education Code, to a limited number of districts with high concentrations of limited- and non-English-speaking pupils and other Economic Impact Aid pupils that receive insufficient funds through the Economic Impact Aid formula. The dollar amounts specified in the immediately preceding sentence shall be adjusted appropriately to reflect any additional funding provided in Item 6100-226-001 for a cost-of-living adjustment. No district receiving funds from the Economic Impact Aid Program shall be allocated less than $5,000, adjusted annually and cumulatively from 1980–81 by the same percentage adjustment for cost-of-living as the Economic Impact Aid Program received.

2. From funds appropriated by this item, the State Department of Education may pay to the United States Department of Education an amount up to $5,000,000, in settlement of the final audit determination identified as ACN 00002-09, Education Appeal Board Case No. 2-(57)-80. The State Department of Education shall reduce the local assistance amount other-

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	wise to be provided pursuant to this item to the school districts identified in the audit by multiplying the settlement amount paid by the ratio that the amount of the final audit determination relating to each district bears to the total amount of the final audit determination. The amount which is repaid to the state under the provisions of Section 456 of the General Education Provisions Act (20 U.S.C. 1234e) shall be apportioned to those districts in the same ratio, and shall be expended by the districts in accordance with the settlement agreement entered into between the State Department of Education and the United States Department of Education in Education Appeal Board Case No. 2-(57)-80.	
	3. Pending the outcome of the sunset review of bilingual education programs pursuant to Section 62006 of the Education Code, there shall be no change in administrative regulations pursuant to Section 52164.6 of the Education Code as it was in effect on May 1, 1985.	
6100-124-001—For local assistance, Department of Education, Program 10.80.010—Gifted and Talented, for the purposes of Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code..		18,900,000
	Provisions:	
	1. Funds appropriated by this item are for transfer by the Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for the 1985–86 fiscal year pursuant to Section 14002 of the Education Code.	
6100-126-001—For local assistance, Department of Education, Program 20.10.035—Miller-Unruh Reading Program		18,166,000
	Provisions:	
	1. Funds appropriated by this item are for the Special Elementary School Reading Instruction Program pursuant to Chapter 2 (commencing with Section 54100) of Part 29 of the Education Code.	
6100-128-001—For local assistance, Department of Education		165,000
	Schedule:	
	(a) 41.00-Executive Management Special Services 186,000	
	(b) Reimbursements ..... −21,000	
6100-131-001—For local assistance, Department of Education, Program 10.30.051—Native American Indian Education		347,000
6100-136-890—For local assistance, Department of Education, Program 10.30.060—Chapter I-ECIA—payable from the Federal Trust Fund		323,415,000
6100-141-890—For local assistance, Department of Education, Program 10.30.010—ECIA Chapter I-Migrant Education, payable from the Federal Trust Fund		79,817,000

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6100-146-001—For local assistance, Department of Education, Program 10.30.040—Demonstration Programs in Reading and Mathematics 3,993,000

Provisions:

1. Funds appropriated by this item are for demonstration programs in reading and mathematics pursuant to Chapter 4 (commencing with Section 58600) of Part 31 of the Education Code.

6100-151-001—For local assistance, Department of Education, Program 10.30.050—American Indian Education Centers 819,000

Provisions:

1. Funds appropriated by this item for Indian Education Centers are limited to carrying out the provisions of Article 6 (commencing with Section 33380) of Chapter 3 of Part 20 of Division 2 of Title 2 of the Education Code.

6100-156-001—For local assistance, Department of Education 184,301,000

Schedule:

(a) 10.50.010.001-Adult Education 184,392,000

(b) Reimbursements ..... −91,000

Provisions:

1. $184,164,000 of the funds appropriated by this item in category (a) are in lieu of the amounts which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1985–86 fiscal year pursuant to Sections 14002, 14004 and 41301 of the Education Code, and are for transfer to Section A of the State School Fund, for the purposes of Section 52616 of the Education Code.
2. Notwithstanding Section 52616 of the Education Code, the average daily attendance used in computing each district's 1985–86 block entitlement shall be the lesser of 107.6 percent of the district's 1981–82 adult block entitlement average daily attendance computed pursuant to paragraph (1) of subdivision (b) of Section 52616 of the Education Code, excluding average daily attendance in regional occupational centers and programs, or the district's reported 1985–86 annual adult average daily attendance, excluding average daily attendance in regional occupational centers and programs.
3. Notwithstanding any other provision of law to the contrary, the amounts appropriated in subschedule (a) of this item and in subschedule (f) (1) of Item 6100-226-001 shall be the maximum amount allocated for the purposes of Section 52616 of the Education Code.

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4. Notwithstanding any other provision of law, of the amount appropriated in this item, $137,000 is for growth to the Tamalpais High School District that exceeds the 2.5 percent growth rate permitted by Section 52616 of the Education Code. These funds shall be used to provide an additional 120 units of ADA in adult education programs for severely handicapped adults in the Marin Community Workshop in 1985–86.
5. Notwithstanding Section 52501.5 of the Education Code, the Paramount Unified School District may retain its fiscal year 1984–85 adult education year-end balance for use in fiscal year 1985–86. The district is authorized to use the reappropriated 1984–85 adult education funds for the purpose of purchasing a portable classroom to be used for an adult education office and counseling center.

6100-156-890—For local assistance, Department of Education, Program 10.50.010.001—Adult Education, payable from the Federal Trust Fund 9,288,000

6100-158-001—For local assistance, Department of Education, Program 10.50.010.002—Adult Education, for transfer to Section A of the State School Fund in lieu of the amount which would otherwise be appropriated pursuant to Section 41841.5 of the Education Code—Adults in Correctional Facilities 1,590,000

6100-161-001—For local assistance, Department of Education, Program 10.60—Special Education Programs for Exceptional Children 780,198,000

Provisions:

1. Funds appropriated by this item are for transfer by the State Controller to Section A of the State School Fund, in lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1985–86 fiscal year pursuant to Sections 14002 and 41301 of the Education Code, for apportionment pursuant to Part 30 of the Education Code, superseding all prior law.
2. No more than $350,000 of the funds appropriated by this item may be used for in-service training for special education teachers.
3. Funds included for the purposes of Article 9 (commencing with Section 56780) of Chapter 7 of Part 30 of the Education Code shall not exceed $28,855,000.
4. Of the amount appropriated in this item, $10,000,000 shall be available for program growth pursuant to Section 56728.6 of the Education Code. The funds allocated pursuant to this provision and Provision 5 shall be the only funds available in this item for program growth.

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5. Of the funds appropriated in this item, $5,000,000 are for growth in the number of instructional personnel service units in programs for individuals with exceptional needs who are younger than three years of age, as defined in Section 56026 of the Education Code. All funds in this item, which are currently being used for existing infant programs shall also be subject to the following:

Notwithstanding Section 56425 of the Education Code, the Superintendent of Public Instruction shall allocate these funds according to the provisions of Chapter 7 (commencing with Section 56700) of Part 30 of the Education Code, except that:

(a) The unduplicated pupil count divided by the number of instructional personnel service units must be greater than the following:
   (1) For special classes and centers—12
   (2) For resource specialist program—24
   (3) For designated instruction and services —12

(b) Infant programs in special classes and centers funded pursuant to this item must be supported by two aides, unless the Superintendent of Public Instruction determines otherwise.

(c) Resource specialist programs funded pursuant to this item must be supported by an aide.

(d) In determining the number of instructional personnel service units for which a special education local plan area may qualify, a minimum of six infants shall constitute eligibility for the initial unit in any settings; however, programs operating pursuant to Section 56425 of the Education Code will be allowed a minimum of one initial unit.

(e) Of the total units allocated to a special education local plan area for infant programs, no more than 50 percent shall be for special classes and centers. In cases where only one unit is allocated, that unit may be for special classes and centers, if appropriate.

(f) In the distribution of these funds, first priority shall be given to special education local plan areas that contain local education agencies which are mandated to serve infants according to the provisions of Section 56425 of the Education Code. Second priority shall be given to those special education local plan areas voluntarily serving infants at the 1984–85 Second Principal Apportionment. Third priority shall be given to special education local plan areas which did not serve infants at the 1984–85 Second Principal Apportionment.

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6. Notwithstanding any other provision of law, in the 1985–86 fiscal year, for each county office of education which certifies to the Superintendent of Public Instruction that it offers 180 days or more of instruction per school year, the Superintendent of Public Instruction shall determine an amount equal to seventy dollars ($70) per unit of current year second principal apportionment special day class average daily attendance. This computation shall be included in computations made by the Superintendent of Schools pursuant to Article 2 of Chapter 7, Part 30 of the Education Code.

   County offices which operate an extended year or summer school program and receive funds for the additional days under those programs shall not be eligible to receive funds under this provision unless the number of days per pupil offered in 1985–86 is at least 180 days. County offices may elect to receive funds under this provision or under the extended year or summer school funding mechanism, but in no case shall a county office receive funding from both sources for the same days of instruction.

7. Notwithstanding any other provision of law, in the 1985–86 fiscal year, for each county office of education which certifies to the Superintendent of Public Instruction that it offers at least the amount of instructional time specified in this subdivision, the Superintendent of Public Instruction shall determine an amount equal to eighty dollars ($80) per unit of current year second principal apportionment special day class average daily attendance in kindergarten and grades 1 to 8, inclusive, and one hundred sixty dollars ($160) per unit of current year second principal apportionment special day class average daily attendance in grades 9 to 12, inclusive.

   This computation shall be included in computations made by the Superintendent of Schools pursuant to Article 2 of Chapter 7, Part 30 of the Education Code.

   The amount of time required for reimbursement under this provision is:

   (A) 34,500 minutes in kindergarten.
   (B) 47,016 minutes in grades 1 to 3, inclusive.
   (C) 50,000 minutes in grades 4 to 8, inclusive.
   (D) 57,200 minutes in grades 9 to 12, inclusive.

8. $3,500,000 of the funds appropriated in this item are available for the purpose of provisions 6 and 7 of this item.

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9. Notwithstanding any other provision of law, the number of units of instructional services funded pursuant to Article 7 of the Education Code for a local plan shall not exceed for special classes and centers an average of one teacher and 1.05 aides per special class or center actually operated. $5,500,000 of the funds appropriated in this item are available for the purposes of this provision.
10. $5,000,000 of the funds appropriated in this item are available for purchase of specialized books, materials, and equipment for pupils with low-incidence disabilities, as defined in Section 56026.5 of the Education Code.
11. $3,500,000 of the funds appropriated in this item are available for matching funds for the purposes of PL98-524, and for vocational training and job placement for special education students. As a condition of receiving these funds, each agency must certify that the amount of nonfederal resources, exclusive of funds received pursuant to this provision, devoted to the provision of vocational education for special education pupils shall be maintained at or above the level provided in 1984–85. The Superintendent of Public Instruction may waive this requirement for agencies which can demonstrate that the requirement would impose a severe hardship.
12. Of the funds appropriated in this item, $150,000 shall be available for the lease or rental of temporary classroom facilities for special education programs that meet the following criteria:
    (a) The local education agency must have a support services quotient for the 1980–81 fiscal year greater than 1.5 times the statewide average quotient computed pursuant to subdivision (a) of Section 56737 of the Education Code.
    (b) The local education agency's 1979–80 fiscal year total special education costs, computed pursuant to Section 56732 of the Education Code, must include costs for the rent or lease of temporary classroom facilities for special education.
    (c) The local education agency must have certification from the State Allocation Board that no suitable alternative classroom facilities are available.
14. Notwithstanding any other provision of law, in the event that two elementary school districts consolidate to form a single elementary district, effective July 1, 1985, and if one of the former elementary districts did not provide any special education programs during the 1984–85 fiscal year, then the base year special education unit rates, support service ratio, and

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local General Fund contribution for the newly consolidated district shall be equal to the base year unit rates, support service ratio, and local General Fund contribution for the one component district which did operate special education programs during the 1984–85 fiscal year.		
6100-161-890—For local assistance, Department of Education, payable from the Federal Trust Fund, Program 10.60—Special Education Programs for Exceptional Children		94,879,000
Schedule:		
(a) 10.60.050.010-PL 94-142, local entitlements	79,581,000	
(b) 10.60.050.020-PL 94-142, direct and indirect instructional services approved in the State Plan	12,001,000	
(c) 10.60.050.030-Preschool Incentive Grant Program	2,400,000	
(d) 10.60.030-EHA, Title VIC, Deaf-Blind Center	240,000	
(e) 10.60.050.040-EHA, Title VID, Handicapped Personnel Preparation Grants	657,000	
Provisions:		
1. If the funds for Part B of the Education for All Handicapped Act exclusive of the Preschool Incentive Grant that are actually received by the state exceed $97,860,000, at least 95 percent of the funds received in excess of $97,860,000 shall be allocated for local entitlements. Five percent (5%) of the amount received in excess of $97,860,000 may be used for state administrative expenses.		
2. $1,561,000 of the funds appropriated in this item for direct and indirect instructional services shall be used only to fund licensed children's institutions growth units.		
3. Of the funds apropriated in this item for direct and indirect instructional services, $2,324,000 shall be used to provide funding for infant programs, and may be used for those programs that do not qualify for funding pursuant to Provision 5 of Item 6100-161-001.		
4. Of the funds appropriated in this item for direct and indirect instructional services, $1,250,000 shall be used to support Project Work Ability.		
5. Of the funds allocated pursuant to Schedule (a), an amount not to exceed $380,000 shall be allocated to the Timpany Center in Santa Clara County, provided that $2 from this item shall be allocated for each $1 provided from local sources, and that the Center certify that the funds provided from this item are used to provide services only to youth aged 21 and under.		
6100-166-001—For local assistance, Department of Education, Program 10.70 Vocational Education		600,000

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Schedule:		
(a) 10.70-Vocational Education	15,925,000	
(b) Reimbursements	−15,325,000	
Provisions:		
1. $13,325,000 of the funds appropriated in this item are for the purpose of the Federal Job Training Partnership Act of 1982.		
2. $600,000 of the funds appropriated in this item are for the purpose of Article 5 of Chapter 9 of Part 29 of the Education Code, Peninsula Academies Model Program.		
3. Of the funds appropriated in this item, $2,000,000 shall be for the purpose of Project Work-Ability II.		
6100-166-890—For local assistance, Department of Education, Program 10.70—Vocational Education, payable from the Federal Trust Fund		63,215,000
Provisions:		
1. Of the funds appropriated in this item, $27,462,866 of the 1985–86 Federal Vocational Education Act funds shall be transferred to the community colleges by means of interagency agreements for the purpose of funding vocational education programs in community colleges.		
6100-167-001—For local assistance, Department of Education, for the purpose of Article 7.5 (commencing with Section 52460) of Chapter 9 of Part 28 of Division 4 of the Education Code		3,130,000
Schedule:		
(a) 10.70-Vocational Education	3,480,000	
(b) Reimbursements	−350,000	
Provisions:		
1. Of the amount appropriated in this item, $130,000 shall be available to provide funding for the Life Lab Science Program.		
6100-171-178—For local assistance, Department of Education, Program 10.80.020—Driver Training, payable from the Driver Training Penalty Assessment Fund, for transfer to Section A of the State School Fund		(19,500,000)
Provisions:		
1. Notwithstanding the provisions of Sections 41304, 41306, and Article 12 (commencing with Section 41900) of Chapter 5 of Part 24 of the Education Code, funding for driver training programs during 1985–86 shall be made exclusively from funds appropriated in this item. These funds shall be transferred by the State Controller to Section A of the State School Fund in amounts as needed by the Department of Education.		

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2. The Department of Education shall allocate these funds among all participating school districts, county offices of education, and the California Youth Authority in accordance with the provisions of Article 12 (commencing with Section 41900) of Chapter 5 of Part 24 of the Education Code.	
6100-176-890—For local assistance, Department of Education, Program 10.40.030—Refugee and Immigrant Programs payable from the Federal Trust Fund	18,370,000
6100-181-001—For local assistance, Department of Education, for Educational Technology, Program 20.10.025—Technology Education	25,285,000
Provisions:	
1. In lieu of the amount that would be provided by Section 52484 of the Education Code, or any other provision of law to the contrary, an amount not to exceed $258,000 from the funds specified in this item, increased by the amount provided in Item 6100-226-001 for the Institute for Computer Technology, shall be available for funding average daily attendance of the Institute for Computer Technology in accordance with Article 8 (commencing with Section 52480) of Chapter 9 of Part 28 of the Education Code.	
6100-181-140—For local assistance, Department of Education, Program 20.10.055—Environmental Education, payable from the California Environmental License Plate Fund	604,000
Provisions:	
2. Of the funds appropriated in this item, $37,000 shall be allocated to the Point Reyes/Clem Miller Environmental Center.	
6100-183-001—For local assistance, Department of Education, Program 20.10.045—Health and Physical Education	500,000
6100-183-178—For local assistance, Department of Education, Program 20.10.045-Health and Physical Education, for the Drug Abuse Prevention Pilot Project	300,000
Provisions:	
1. Of the funds appropriated in this item, $270,000 shall be expended by the Superintendent of Public Instruction to conduct a three-year pilot program for drug abuse prevention beginning July 1, 1985, in selected regions of the state.	
2. Of the funds appropriated in this item, $30,000 shall be expended by the Department of Education for an evaluation of the effectiveness of the Drug Abuse Prevention Pilot Project. The funding shall be reported to the Legislature every year on or before September 1.	
6100-186-001—For local assistance, Department of Education, Program 20.20.020.001—Instructional Materials Management and Distribution—Grades K–8	62,266,000

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Provisions:

1. Funds appropriated by this item are for transfer by the Controller, in lieu of the appropriation provided for in Section 60246 of the Education Code, to the State Instructional Materials Fund, for allocation during the 1985–86 fiscal year for the purchase of instructional materials for Kindergarten through grades 8, pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of Part 33 of the Education Code. These funds shall be transferred to the State Instructional Materials Fund by the Controller in amounts claimed by the Department of Education, and the remaining balance, if any, shall be transferred to the State Instructional Materials Fund on June 30, 1986.
2. Funds appropriated by this item for the Instructional Materials Management and Distribution Program shall be transferred for direct disbursement by the Department of Education from the State Instructional Materials Fund.
3. Notwithstanding the provisions of Part 33 (commencing with Section 60000) of the Education Code, and pursuant to the August 27, 1981 decision of the California Supreme Court in California Teachers' Association vs. Riles, no part of the funds appropriated herein shall be used to provide instructional materials for nonpublic schools or students.
4. No pupil textbooks shall be adopted by the State Board of Education and no funds shall be available to finance contracts for textbooks in which the royalty amount exceeds 55 percent of the completed book bid, which is the total cost less sales tax less all freight. Royalty amounts payable shall be adjusted in subsequent years in conformance with the Consumer Price Index—All Items, of the Bureau of Labor Statistics of the United States Department of Labor, provided that such adjustment shall occur only when the completed book bid is revised, pursuant to Sections 60201 and 60223 of the Education Code.
5. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item and in category (k) of Item 6100-226-001 shall be the maximum amount allocated for the purpose of Section 60246 of the Education Code.
6. In the 1985–86 fiscal year, notwithstanding any other provision of law, the cash allotments pursuant to paragraph (2) of subdivision (a) of Section 60242 of the Education Code, the allowances pursuant to subdivision (b) of Section 60242 of the Education Code, and the apportionments pursuant to Section 60247 of the Education Code shall be made in full in the form of single payments to eligible school districts not later than September 15, 1985.

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6100-187-001—For local assistance, Department of Education, Program 20.20.020.002—Instructional Materials Management and Distribution—Grades 9–12 19,917,000

Provisions:

1. Funds appropriated by this item are for transfer by the Controller to the State Instructional Materials Fund, for allocation during the 1984–85 fiscal year for the purchase of instructional materials for grades 9 through 12, pursuant to Sections 60247 through 60249, inclusive, of the Education Code. These funds shall be transferred to the State Instructional Materials Fund by the Controller in amounts claimed by the Department of Education, and the remaining balance, if any, shall be transferred to the State Instructional Materials Fund on June 30, 1986.
2. Funds appropriated by this item for the Instructional Materials Management and Distribution Program shall be transferred for direct disbursement by the Department of Education from the State Instructional Materials Fund.
3. Notwithstanding the provisions of Part 33 (commencing with Section 60000) of the Education Code, and pursuant to the August 27, 1981 decision of the California Supreme Court in California Teachers' Association vs. Riles, no part of the funds appropriated herein shall be used to provide instructional materials for nonpublic schools or students.
4. No pupil textbooks shall be adopted by the State Board of Education and no funds shall be available to finance contracts for textbooks for which the royalty amount exceeds 55 percent of the completed book bid, which is the total cost less sales tax less all freight. Royalty amounts payable shall be adjusted in subsequent years in conformance with the Consumer Price Index—All Items, of the Bureau of Labor Statistics of the United States Department of Labor, provided that such adjustment shall occur only when the completed book bid is revised, pursuant to Sections 60201 and 60223 of the Education Code.
5. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item and in subschedule (*l*) of Item 6100-226-001 shall be the maximum amount allocated for the purpose of Section 60247 of the Education Code.
6. In the 1985–86 fiscal year, notwithstanding any other provision of law, the cash allotments pursuant to paragraph (2) of subdivision (a) of Section 60242 of the Education Code, the allowances pursuant to subdivision (b) of Section 60242 of the Education Code, and the apportionments pursuant to Section 60247 of the Education Code, shall be made in full in the

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	form of single payments to eligible school districts not later than September 15, 1985.	
6100-191-001—For local assistance, Department of Education, Program 20.60—Staff Development		82,104,000
Schedule:		
(a) 20.60.010.001-Administrator Training and Evaluation Program	4,000,000	
(c) 20.60.050.001-Mentor Teacher Program	44,750,000	
(e) 20.60.060.001-School Personnel Staff Development	3,470,000	
(f) 20.60.060.002-Teacher Instructional Improvement Grants	17,100,000	
(g) 20.60.070-Bilingual Teacher Training	802,000	
(h) 20.60.090-Teacher Education and Computer Centers	11,982,000	

Provisions:

1. Funds appropriated by this item are for transfer by the Controller to Section A of the State School Fund, for direct disbursement by the Department of Education, in lieu of the amount which would otherwise be appropriated for staff development pursuant to subdivision (a) of Section 74 of Chapter 894 of the Statutes of 1977. Funds appropriated in this item are for the purpose of making allowances pursuant to Article 1 (commencing with Section 44670) and Chapter 3.1 of Part 25, Article 10 (commencing with Section 44630) of Chapter 3 of Part 25, Article 4 (commencing with Section 52180) of Chapter 7 of Part 28 of the Education Code, Article 3 (commencing with Section 44681) of Chapter 3.1 of Part 25 of the Education Code, Chapter 3.15 (commencing with Section 44689.5) of Part 25 of the Education Code, Article 4 (commencing with Section 44490) of Chapter 3 of Part 25 of the Education Code, Chapter 3.3 (commencing with Section 44700) of Part 25 of the Education Code, and Article 2 (commencing with Section 44680) of Chapter 3.1 of Part 25 of the Education Code.
2. Notwithstanding any other provision of law to the contrary, the amount appropriated in subschedule (a) of this item shall be the maximum amount allocated for the purposes of Article 3 (commencing with Section 44681) of Chapter 3.1 of Part 25 of the Education Code.
3. Notwithstanding any other provision of law to the contrary, the amount appropriated in subschedule (b) of this item shall be the maximum amount allocated for the purposes of Chapter 3.15 (commencing with Section 44689.5) of Part 25 of the Education Code.

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4. Notwithstanding any other provision of law to the contrary, the amount appropriated in subschedule (c) of this item shall be the maximum amount allocated for the purposes of Article 4 (commencing with Section 44490) of Chapter 3 of Part 25 of the Education Code.	
5. Notwithstanding any other provision of law, each school district which participates in the Mentor Teacher Program and receives funds pursuant to subdivision (a) of Section 44492 of the Education Code shall certify to the Superintendent of Public Instruction that no more than 10 percent of the total amount which it receives pursuant to subdivisions (a) and (c) of Section 44492 of the Education Code will be used for administrative costs. For purposes of this provision, "administrative costs" shall include the personnel costs of program administration and coordination, the costs of mentor teacher selection, and indirect costs associated with the mentor teacher program.	
6. Notwithstanding any other provision of law to the contrary, the amount appropriated in subschedule (f) of this item shall be the maximum amount allocated for the purposes of Chapter 3.3 (commencing with Section 44700) of Part 25 of the Education Code.	
7. Notwithstanding any other provision of law to the contrary, the amount appropriated in subschedule (h) of this item shall be the maximum amount allocated for the purposes of Article 2 (commencing with Section 44680) of Chapter 3.1 of Part 25 of the Education Code.	
8. Funds appropriated in subschedules (e) and (h) of this item for staff development activities shall aid teachers and site administrators across the curriculum, including support for science, mathematics, computer education, reading, writing, the humanities, and the arts. Funding proposals developed by Teacher Education Centers and local school site councils shall specify what varieties of curriculum areas, teachers and site administrators will be assisted. Curriculum-wide staff development in areas other than mathematics and science skills shall be supported in each of 15 regions by funds appropriated in this item.	
6100-193-001—For local assistance, Department of Education, Program 20.10.015—Regional Science Resource Centers	225,000
6100-196-001—For local assistance, Department of Education	279,706,000
Schedule:	
(a) 30.10.010-Preschool 34,098,000	
(b) 30.10.020-Child Care Services 248,230,000	

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(1) 30.10.020.001-General child development programs	199,402,000	
(2) 30.10.020.002-Campus children's centers	5,908,000	
(3) 30.10.020.003-High-school-age parenting and infant development	4,810,000	
(4) 30.10.020.004-Migrant day care	6,298,000	
(5) 30.10.020.005-Special allowances for rent	404,000	
(6) 30.10.020.006-Special allowances for handicapped	677,000	
(7) 30.10.020.007-Alternative payment program	19,138,000	
(8) 30.10.020.008-Resource and referral	6,790,000	
(9) 30.10.020.009-Campus child care tax bailout	3,833,000	
(10) 30.10.020.010-Protective services	970,000	
(c) Reimbursements		−2,622,000

Provisions:

1. Funds appropriated by this item, in category (a), are for apportionment to school districts and other eligible agencies maintaining preschool programs pursuant to Article 7, Chapter 2 (commencing with Section 8235) of Part 6 of the Education Code. Cost-of-living increases provided for in category (u) of Item 6100-226-001 for preschool programs shall be distributed on a pro rata basis.
2. Funds scheduled in category (b) (1) of this item, for county child care services, shall be allocated subject to the requirements of Education Code Section 8729.
3. Funds appropriated in Item 6100-226-001, category (v) for cost-of-living increases for child development programs shall be distributed on a pro rata basis among the programs scheduled in this item except as otherwise provided in Item 6100-226-001.
4. Community college districts which levied child development permissive override taxes pursuant to Sections 8329 and 8330 of the Education Code in the 1977–78 fiscal year and received fiscal relief through Chapter 282 of the Statutes of 1979 shall not receive reimbursement for child

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care services from the superintendent in excess of 75 percent of the average daily enrollment funding standards for campus child care programs. Campus child care programs operated by the University of California, California State University and Colleges, and community colleges that did not levy a permissive override tax in the 1977–78 fiscal year shall receive reimbursement from the superintendent which equals 100 percent of the average daily enrollment funding standards for campus child care programs.

5. The amount appropriated by this item for campus child care tax bailout shall be allocated by the Department of Education on order of the Chancellor of the California Community Colleges. The Chancellor shall order the allocation of these funds to community college districts which levied child care permissive override taxes in 1977–78 pursuant to Sections 8329 and 8330 of the Education Code in an amount equal to the property tax revenues, tax relief subventions, and state aid required to be made available by the district to its child development program for the 1979–80 fiscal year pursuant to Section 30 of Chapter 1035 of the Statutes of 1979, increased by any cost-of-living increases granted in subsequent fiscal years. These funds shall be used only for the purpose of community college child development programs.
6. Notwithstanding the provisions of Section 8262 of the Education Code and Sections 14616 and 14780 of the Government Code, the Superintendent of Public Instruction may enter into and execute local agreements for allocation of the funds appropriated in category (b) of this item and, to the extent permissible under federal law, for allocation of the funds appropriated in Item 6100-196-890 to any public or private entity or agency for (a) the delivery of child care and development services or (b) the furnishing of property, facilities, personnel, supplies, equipment, or administrative services related to the delivery of child care and development services. Prior to entering into or executing such local agreements, however, the Department of Education shall obtain approval from the Department of General Services and the Department of Finance as to the form and general content thereof. Such agreements may only be made for the delivery of child care and development services, or the furnishing of property, facilities, personnel, supplies, equipment, or administrative services related thereto, which conform to the provisions of Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code, excluding Section 8262.

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7. Until such time as new funding procedures are established by the State Department of Education, the following reimbursement factors shall remain in effect:
   (a) Under 4 hours per day: 50% of the full-time daily rate.
   (b) 4 to under 6½ hours: 75% of the full-time daily rate.
   (c) 6½ to under 10½ hours: 100% of the full-time daily rate.
   (d) 10½ hours and over: 150% of the full-time daily rate.
8. Repayments of loans made pursuant to Section 8277.2 of the Education Code, for minor capital outlay expenditures by a local child care and development agency to renovate or repair child care facilities owned by the state or a local government or nonprofit, nonsectarian agency to meet state and local health and safety standards, shall be reimbursable as actual and allowable costs. These reimbursable costs shall not exceed the maximum amount established by the contract between the Office of Child Development and the contracting agency, and shall be allowable provided that the agency shall not reduce the level of services provided to children. No expenditure in excess of $500 may be made unless approved in writing in advance by the Office of Child Development.
9. Notwithstanding any other provision of law, child development appropriations shall be available for expenditure for three years, except that funds remaining unencumbered as of June 30, 1986, shall revert to the General Fund. The Superintendent of Public Instruction shall reallocate any unearned contract funds pursuant to subdivision (b) of Section 8278 of the Education Code.

6100-196-890—For local assistance, Department of Education, Program 30.10—Child Development, payable from the Federal Trust Fund 2,140,000

6100-201-001—For local assistance, Department of Education, Program 30.20—Child Nutrition 46,872,000

Provisions:

1. Funds appropriated by this item are for child nutrition programs pursuant to the provisions of Section 41311 and clause (3) of subdivision (a) of Section 41312 of the Education Code; and that claims for reimbursement of meals pursuant to this appropriation shall be submitted by school districts not later than September 30, 1986, to be eligible for reimbursement.

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2. Notwithstanding any other provisions of law, except as provided in this provision, funds appropriated by this item shall be available for allocation in accordance with provisions of Section 49536 of the Education Code, except that such allocation shall not be made on the basis of all meals served but shall be made on the basis of the number of meals that are served and which qualify as free or reduced priced meals in accordance with provisions of Sections 49501, 49550, and 49552 of the Education Code. Notwithstanding Section 49536 of the Education Code, of the amount appropriated in this item, $16.8 million shall be used to increase the reimbursement to child nutrition entities under Section 49536 of the Education Code on a pro rata basis.

3. Notwithstanding the provisions of Sections 41311, 41312, 41350, 41352, and 41353 of the Education Code, the funds appropriated by this item, as augmented by Item 6100-226-001, shall not be transferred to the Child Nutrition Fund. Disbursements shall be made from the General Fund as appropriated herein.

6100-201-890—For local assistance, Department of Education, Program 30.20—Child Nutrition, payable from the Federal Trust Fund. 404,366,000

6100-203-890—For local assistance, Department of Education, Program 30.50—Donated Food Distribution, for the Temporary Emergency Food Assistance Program, payable from the Federal Trust Fund 3,000,000

6100-206-001—For local assistance, Department of Education, Program 30.40—Urban Impact Aid, for transfer to Section A of the State School Fund, for the purposes of Section 54060 of the Education Code 72,543,000

Schedule:

(a) 30.40.001.001—For unified school districts pursuant to subdivision (a) of Section 54060 of the Education Code 63,327,000

(b) 30.40.001.002—For nonunified school districts pursuant to subdivision (b) of Section 54060 of the Education Code 9,216,000

Provisions:

1. Notwithstanding any other provision of law to the contrary, the amounts appropriated in this item and in subschedule (x) of Item 6100-226-001 shall be the maximum amount allocated for the purposes of Section 54060 of the Education Code.

6100-207-001—For local assistance, Department of Education, Program 30.40.002—Meade Aid, for transfer to Section A of the State School Fund, for the purpose of Section 54061 of the Education Code 9,935,000

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Provisions: 1. Funds appropriated in this item are in lieu of the amount which would otherwise be appropriated pursuant to Section 54058 of the Education Code.	
6100-209-001—For local assistance, Department of Education, for transfer to the Controller for reimbursement of claims received pursuant to Section 44944 of the Education Code, Program 10.10—School Apportionments	18,000
6100-211-001—For local assistance, Department of Education, California State Library, Program 50.20—Statewide Library Support and Development	10,710,000
Provisions: 1. Funds appropriated by this item are for allocation by the California Library Services Board to eligible libraries and library systems pursuant to Chapter 4 (commencing with Section 18700) of Part 11 of the Education Code.	
6100-211-890—For local assistance, Department of Education, California State Library, Program 50.20—Statewide Library Support and Development, payable from the Federal Trust Fund	12,000,000
6100-221-001—For local assistance, Department of Education, California State Library, Program 50.20—Statewide Library Support and Development—Public Library Foundation Program	20,250,000
6100-222-001—For local assistance, Department of Education, for the purpose of Chapter 3 of Part 7 (commencing with Section 10200) of the Education Code—Program 20.60.020.001 Youth Suicide Prevention Program	300,000
6100-224-001—For local assistance of Department of Education, Program 10.10-School Apportionments, for Transfer to Section A of the State School Fund, for the purposes of Sections 17717.7 and 17857 of the Education Code, incentive payments for utilizing alternatives to new construction and year-round schools	3,639,000
Provisions: 1. Notwithstanding any other provision of law, the funds appropriated in this item shall be the only funds allocated as incentive payments for year-round school operations and for incentive payments for utilizing alternatives to new construction. 2. Any eligible school district shall be permitted to receive funds pursuant to either Section 17717.7 or Section 17857 of the Education Code but not pursuant to both sections.	

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	3. If a district receives state reimbursement specifically attributable to the cost of operating schools on a year-round basis pursuant to a court-ordered or voluntary desegregation program, the district shall be eligible for any portion of all of the allowances for incentive payments under this item for the 1985–86 fiscal year only to the extent that the district incurs costs in 1985–86 specifically attributed to operating schools on a year-round basis, as audited and approved by the Controller, that exceed claims submitted for state reimbursement and deemed to be allowable costs by the Controller for such year-round operation pursuant to Sections 17739, 44243.6 and 42249 of the Education Code for the 1985–86 fiscal year. Funds received pursuant to this item for year-round school incentives shall be used for costs solely attributable to operating schools on a year-round basis. Funds may be distributed during the 1985–86 fiscal year pursuant to the requirements of the previous two sentences. However, the Controller shall audit and may make adjustments to the funds distributed under this item in future years.	
6100-226-001	—For local assistance, Department of Education, for cost-of-living increases to be transferred to, and in augmentation of the respective appropriations by the State Controller upon enactment in accordance with the following schedule:	794,626,450
	Schedule:	
	(a) 10.10—School Apportionments:	
	(1) 10.10.001.001—K–12 Districts, for the purpose of paragraph (1) of subdivision (b) of Section 42238 of the Education Code (for transfer to Item 6100-101-001)	594,100,000
	(2) 10.10.001.002—K–12 Districts for the purpose of subdivision (f) of Section 42238 of the Education Code (for transfer to Item 6100-101-001)	3,884,000
	(3) 10.10.001.003—Small School District Transportation Aid, for the purposes of Section 42240 and Section 42240.1 of the Education Code (for transfer to Item 6100-101-001)	765,000
	(4) 10.10.001.004—Meals for Needy Pupils Programs, for the purposes of Article 11 (commencing with Section 49550) of Chapter 9 of Part 27 of the Education Code (for transfer to Item 6100-101-001)	1,341,000
	(5) 10.10.001.005—Apprentice Programs, for the purpose of Section 8153 of the Education Code (for transfer to Item 6100-101-001)	154,897

Item		Amount
(6)	10.10.004—Regional Occupational Centers and Programs, for the purpose of Article 1 (commencing with Section 52300) of Chapter 9 of Part 28 of the Education Code, in lieu of the amount which would otherwise be appropriated for inflation adjustments pursuant to Sections 2557 and 42238 of the Education Code (for transfer to Item 6100-102-001)	11,880,972
(7)	10.10.005—K-12 County Offices of Education, in lieu of the amount which would otherwise be appropriated for the purposes of Section 2557 and paragraph (2) of subdivision (a) of Section 2551.3 of the Education Code (for transfer to Item 6100-106-001)	11,360,000
(8)	10.10.006—Transportation, for the purpose of Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code (for transfer to Item 6100-111-001)	10,865,000
(9)	10.10.008—Transportation, for the purpose of Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of the Education Code (for transfer to Item 6100-111-001)	120,000
(10)	10.10.011—Summer School Programs, for the purpose of Section 42239 of the Education Code (for transfer to Item 6100-101-001	3,861,000
(b)	10.30.040—Demonstration Programs in Reading and Mathematics (for transfer to Item 6100-146-001)	252,120
(c)	10.30.050—American Indian Education Centers (for transfer to Item 6100-151-001)	33,000
(d)	10.30.051—Native American Indian Education (for transfer to Item 6100-131-001)	14,000
(e)	10.30.070—Economic Impact Aid (for transfer to Item 6100-121-001)	11,867,553
(f)	10.50—Adult Education:	
(1)	10.50.010.001—In lieu of the amount which would otherwise be appropriated for the purpose of subdivision (a) of Section 52616 of the Education Code (for transfer to Item 6100-156-001)	12,420,000
(2)	10.50.010.002—Adults in Correctional Facilities, for the purpose of Section 41481.5 of the Education Code (for transfer to Item 6100-158-001)	95,000

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(g)	10.60—Special Education:	
(1)	In lieu of the amount which would otherwise be appropriated for the purpose of Section 56723 of the Education Code (for transfer to Item 6100-161-001)	84,293,000
(2)	In lieu of the amount which would otherwise be appropriated for the purpose of Section 56782 of the Education Code (for transfer to Item 6100-161-001)	1,825,000
(h)	10.80.010—Gifted and Talented Program, in lieu of the amount which would otherwise be appropriated for purposes of Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code (for transfer to Item 6100-124-001)	1,134,000
(i)	20.10.025—Curriculum Services—Educational Technology Program (for transfer to Item 6100-181-001)	611,000
(j)	20.10.035—Miller-Unruh Reading Program (for transfer to Item 6100-126-001)	1,149,666
(k)	20.20.020.001—Instructional Materials Management and Distribution for Kindergarten through grade 8, in lieu of the amount which would otherwise be appropriated for inflation adjustments pursuant to Section 60246 of the Education Code (for transfer to Item 6100-186-001)	3,941,000
(*l*)	20.20.020.002—Instructional Materials Management and Distribution for grades 9–12 (for transfer to Item 6100-187-001)	1,260,307
(m)	20.40.060—Foster Youth Services for the purpose of Section 903 of the Welfare and Institutions Code (for transfer to Item 6100-119-001)	31,000
(n)	20.40.070—Alternative Education Programs (for the purpose of providing a cost-of-living adjustment to the amount specified in Section 48644 of the Education Code)	165,000
(o)	20.40.090—Specialized Secondary Programs (for transfer to Item 6100-119-001)	80,000
(q)	20.60.020.001—Youth Suicide Prevention (for transfer to Item 6100-222-001)	12,000
(r)	20.60.020.002—Tenth Grade Counseling Program (for transfer to Item 6100-109-001)	282,000

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(s)	20.60.030—School Improvement Program (for transfer to Item 6100-116-001)	11,845,000
	1) 20.60.030.001—School Improvement Grades K–6.... 10,747,000	
	2) 20.60.030.002—School Improvement Grades 7–12 .. 1,098,000	
(t)	20.60—Staff Development:	
(1)	20.60.010.001—Administrator Training and Evaluation Program (for transfer to Item 6100-191-001 (a))	160,000
(2)	20.60.060.001—School Personnel Staff Development (for transfer to Item 6100-191-001 (e))	139,000
(3)	20.60.070—Bilingual Teacher Training (for transfer to Item 6100-191-001 (g))	32,000
(4)	20.60.090—Teacher Education and Computer Centers (for transfer to Item 6100-191-001 (h))	479,000
(u)	30.10.010—Preschool Education (for transfer to Item 6100-196-001)	2,157,854
(v)	30.10.020—Child Care Services:	
(1)	30.10.020.001—General Child Development Programs (for transfer to Item 6100-196-001 (b))	12,456,305
(2)	30.10.020.002—Campus Children's Centers (for transfer to Item 6100-196-001 (b))	371,470
(3)	30.10.020.003—High-School-Age Parenting and Infant Development (for transfer to Item 6100-196-001(b))	303,085
(4)	30.10.020.004—Migrant Day Care (for transfer to Item 6100-196-001 (b))	398,308
(5)	30.10.020.005—Special Allowances for Rent (for transfer to Item 6100-196-001(b))	24,128
(6)	30.10.020.006—Special Allowances for Handicapped (for transfer to Item 6100-196-001(b))	43,256
(7)	30.10.020.007—Alternative Payment Program (for transfer to Item 6100-196-001(b))	1,209,342
(8)	30.10.020.008—Resources and Referral (for transfer to Item 6100-196-001(b))	429,145
(9)	30.10.020.009—Campus Child Care and Tax Bailout (for transfer to Item 6100-196-001(b))	242,410

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(10) 30.10.020.010—Protective Services (for transfer to Item 6100-196-001(b))		60,675
(w) 30.20—Child Nutrition, in lieu of the amount which would otherwise be appropriated for the purpose of Section 49536 of the Education Code (for transfer to Item 6100-201-001)		1,203,000
(x) 30.40.001—Urban Impact Aid (for transfer to subdivision (a) of Item 6100-206-001)		4,589,957
(1) 30.40.001.001—Urban Impact Aid Unified School Districts	4,006,914	
(2) 30.40.001.002—Urban Impact Aid Nonunified School Districts	583,043	
(y) 30.40.002—Meade Aid (for transfer to Item 6100-207-001)		397,000
(z) 50.20—Statewide Library Support and Development (for transfer to Item 6100-211-001)		288,000

Provisions:

2. The Department of Education shall apportion inflation allowances to juvenile hall programs on the basis of equal dollar amounts per ADA for each program.

3. Notwithstanding Section 42238.1 of the Education Code, for the 1985–86 fiscal year the Superintendent of Public Instruction shall compute an inflation adjustment for each type of school district equal to the product of subdivisions (a) and (b):

(a) Compute for the sum of the following:

(1) The statewide average base revenue limit per unit of average daily attendance for the 1984–85 fiscal year for districts of similar type.

(2) The amount, if any, per unit of average daily attendance received by the district pursuant to Article 8 (commencing with Section 46200) of Chapter 2 of Part 26 of the Education Code for the 1984–85 fiscal year.

(b) The percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the 1984–85 fiscal year. This percentage change shall be determined using the latest data available as

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of May 1, 1985, compared with the annual average value of the same deflator for the 12-month period ending in the third quarter of the 1983–84 fiscal year, using the data upon which the inflation adjustment calculated for the 1984–85 fiscal year was based. The percentage change computed pursuant to this provision shall be deemed to be the percentage change computed pursuant to Section 42238.1 of the Education Code for the 1985–86 fiscal year.

6100-301-036—For minor capital outlay (90.50.010), Department of Education, payable from the Special Account for Capital Outlay 159,000

6100-401—Notwithstanding any provision of law to the contrary, no funds appropriated by this act, or by any act enacted prior to the enactment of this act, shall be deemed appropriated or available for expenditure for purposes of claims arising from Section 46140 of the Education Code as it read prior to the enactment of Chapter 1230 of the Statutes of 1977, except for appropriations necessary to fund the March 13, 1985, Orange County Superior Court Order in Fullerton Union High School District, et al. v. Wilson Riles, Superintendent of Public Instruction, et al., Orange County Superior Court No. 33-46-93; and the March 13, 1985, Orange County Superior Court Order as it binds the State of California in Rowland Unified School District, et al., v. Wilson Riles, Superintendent of Public Instruction, et al., Los Angeles Superior Court No. C 323905.

6100-490—Reappropriation, Department of Education. Notwithstanding any other provision of law, on the effective date of this act, the specified balances of the appropriations provided in the following citations, are reappropriated for the purposes provided for in such appropriations and any additional purposes provided in this section, and shall be available for expenditure until June 30, 1986:

001—General Fund

(1) Item 6100-146-001, Budget Act of 1984, the undisbursed balance, for the performance of evaluations and dissemination activities for Demonstration Programs in Reading and Mathematics.

(2) Item 6100-121-001, Budget Act of 1983, $625,000 for settlement of the final audit determination identified as ACN 00002-09, Education Appeal Board Case No. 2-(57)-80.

(3) Item 6100-121-001, Budget Act of 1984, $625,000 for settlement of the final audit determination identified as ACN 00002-09, Education Appeal Board Case No. 2-(57)-80.

(4) Chapter 1651, Statutes of 1984, subdivision (2)(b), the unencumbered balance, Regional Science Resource Centers.

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(5) Item 6100-191-001, Schedule (a), Budget Act of 1984, $250,000 of the unencumbered balance for the purposes of beginning implementation of a pilot project for the new financial reporting system for school districts and county offices of education, the remaining unencumbered balance for the purposes of the Administrative Training and Evaluation Program pursuant to Article 3 (commencing with Section 44681) of Chapter 3.1 of Part 25 of the Education Code.

(6) Item 6100-191-001(b), Budget Act of 1984, the undisbursed balance, for Pilot Projects for Administrative Personnel.

(7) Item 6100-191-001(c), Budget Act of 1984, the undisbursed balance, for Pilot Projects to Strengthen Personnel & Management.

(8) Item 6100-119-001(b), Budget Act of 1984, the undisbursed balance, for the purpose of expanding Opportunity Classes and Programs.

(9) The amount of $500,000 from Chapter 1604 of the Statutes of 1984, paragraph (1) of subdivision (a) of Section 7, for instructional materials for childcare and development programs.

(10) Item 6100-181-001, Budget Act of 1984, the unencumbered balance, for completion of ITV and software grants for the Education Technology Program.

036—Special Account for Capital Outlay

(1) The unencumbered balance of Section 23.4 of Chapter 798, Statutes of 1980, as amended by Section 15.5 of Chapter 209, Statutes of 1982, for the purposes specified in Sections 8277.1 to 8277.7, inclusive, of the Education Code, relating to the renovation and repair of child care facilities to ensure compliance with state and local health and safety standards and acquisition and lease of relocatable facilities.

Provisions:

1. Notwithstanding any other provision of law, the amount reappropriated shall be the maximum amount allocated for the purposes of Article 2.3 of Part 27 (commencing with Section 48643) of the Education Code. If the total reappropriation is not sufficient to fund all excess costs of expanding Opportunity Classes and Programs as provided in Section 48643 of the Education Code, a deficit factor will be applied to all district apportionments as necessary.
2. Notwithstanding Section 48644 of the Education Code, funds allocated to school districts for the expansion of Opportunity Classes and Programs shall not exceed $400 per unit of average daily attendance (ADA), based on the additional enrollment in these classes and programs above the 1982–83 enrollment levels, expressed in

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terms of ADA. For the purposes of making this allocation to Opportunity Programs, the superintendent shall use the following definition to express enrollment in Opportunity Programs in terms of ADA. Using total positive clock hours scheduled and attended during the year, 405 hours of opportunity program assignment equals one Opportunity Program ADA. (405 hours is the product of a Second Principal Apportionment divisor of 135 and three hours of attendance per day.)	
3. Subject to the restrictions in Provision 1, a cost-of-living adjustment will be applied to the maximum incentive payment per ADA of $400.	
6100-495—Reversions, Department of Education. As of June 30, 1985, the undisbursed balance of the appropriations provided in the following citation shall revert to the unappropriated surplus of the fund from which the appropriation was made.	
001—General Fund	
(1) Chapter 1073, Statutes of 1984, Section 5, for the purpose of conducting seismological tests at the State Special School for the Deaf located in Fremont.	
(2) Item 6100-224-001, Budget Act of 1984, for purposes of Sections 17717.7 and 17857 of the Education Code, incentive payments for utilizing alternatives to new construction and year-round schools, except that the amount reverted shall be $3,639,000.	
(3) Subdivision (a) of Section 5 of Chapter 1603 of the Statutes of 1984, for the purpose of expansion of child care resource and referral programs.	
(4) Paragraph (1) of subdivision (a) of Section 7 of Chapter 1604 of the Statutes of 1984, for the purpose of increasing reimbursement levels of underfunded child care and development services, except that the amount shall be the unencumbered balances in excess of $500,000.	
(5) Paragraphs (2) and (4) of subdivision (a) of Section 7 of Chapter 1604 of the Statutes of 1984, for the purpose of child care and development programs.	
6300-111-001—For transfer to the Retirees' Purchasing Power Protection Account within the Teachers' Retirement Fund pursuant to Section 24701 of the Education Code, for the payment of increased annual cost-of-living adjustments for retirants, disabilitants, and beneficiaries in excess of the 2-percent adjustment authorized by Section 22131 of the Education Code	72,214,000
6320-001-001—For support of California Advisory Council on Vocational Education	56,000
Schedule:	
(a) 100000-Personal Services 170,000	
(b) 300000-Operating Expenses and Equipment 95,000	

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(c) Amount payable from the Federal Trust Fund (Item 6320-001-890) ..	—209,000
6320-001-890—For support of California Advisory Council on Vocational Education, for transfer to Item 6320-001-001, payable from the Federal Trust Fund	209,000
6330-001-890—For support of the California Occupational Information Coordinating Committee payable from the Federal Trust Fund	104,000
6350-201-036—For local assistance, School Facilities Aid Program—Asbestos Abatement, for transfer to the Asbestos Abatement Fund, for the purposes of Section 39619.9 of the Education Code payable from the Special Account for Capital Outlay.....	10,000,000
Provisions:	
1. Of the funds transferred to the Asbestos Abatement Fund, $100,000 are available for expenditure in support of the Department of Industrial Relations, Cal-OSHA, as appropriated in Item 8350-001-973, for increasing monitoring and inspections of school asbestos abatement projects.	
6350-201-973—For local assistance, School Facilities Aid Program—Asbestos Abatement for the purposes of Section 39619.9 of the Education Code, payable from the Asbestos Abatement Fund	9,900,000
Provisions:	
1. Notwithstanding any other provision of law, the State Allocation Board shall require local education agencies receiving funds appropriated in this item to agree to the following conditions: In the event the local education agency receives an award for the costs of asbestos abatement as a result of any lawsuit or claim brought by it or on its behalf against asbestos manufacturers or any person determined to be liable for these costs, a part of such award shall be used to repay funds which the agency receives from this item. The amount of the repayment shall equal the product of (a) the amount received from funds appropriated in this item and (b) the proportion of total asbestos abatement expenditures made by the agency which are compensated as a result of the lawsuit or claim.	
2. (a) Funds allocated from this item to any school district or county office of education may be expended only pursuant to a model asbestos abatement contract which shall be developed by the State Allocation Board, pursuant to supplemental report language to the 1985 Budget Act.	
(b) No funds allocated from this item may be used to reimburse the costs of asbestos abatement activities completed under contract with a person, firm, or school district which fails to meet the qualifications established by the State Allocation Board for all bidders for school asbestos abatement contracts.	

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3. Notwithstanding any other provision of law, the State Allocation Board shall provide from the Asbestos Abatement Fund to each eligible school district, an amount equal to 50 percent of the approved cost of asbestos abatement projects. The board may increase the allocation to any district by the amount it determines necessary to complete critical projects, provided that the district agrees to contribute to the Asbestos Abatement Fund an amount equal to the lesser of (1) one-half of 1 percent of the district's general fund and adult education budget (excluding capital outlay and debt service) each year for a period of five years or (2) 25 percent of the total costs of projects for districts with 4,499 ADA or less for which the district receives an apportionment from the Asbestos Abatement Fund or (3) 50 percent of the total costs of projects for districts with 4,500 ADA or more for which the district receives an apportionment from the Asbestos Abatement Fund.

6350-401—For Local Assistance, School Facilities Aid.

(a) Notwithstanding any other provision of law, the Department of General Services, Office of Local Assistance, shall order, by August 1, 1985, a number of emergency classrooms at least equal to the total number of emergency classrooms ordered by the department during 1984–85, in order to maximize the number available for delivery to eligible school districts and county offices of education prior to the start of the school year.

(b) The State Allocation Board shall review its rules and regulations for the emergency classrooms that will be used for special education students have facilities suitable to the needs of special education students who will be using the emergency classrooms.

6360-001-001—For support, Commission on Teacher Credentialing 1,361,000

6360-001-407—For support of Commission on Teacher Credentialing, payable from the Teacher Credentials Fund 6,321,000

Schedule:

(a) 100000-Personal Services 3,149,500

(b) 300000-Operating Expenses and Equipment 3,171,500

Provisions:

1. The provisions applicable to Item 9840-001-494 shall not apply to the authorization of a deficiency for the purpose of funding professional standards review for the Commission on Teacher Credentialing, and the Director of Finance may authorize a deficiency expenditure for that purpose pursuant to Section 11006 of the Government Code, except that any authorizations for

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additional expenditures shall be subject to Section 28 of this act.

2. The Department of Finance is authorized to augment the commission's budget in an amount necessary to pay the actual amounts charged by the Department of Justice for fingerprint processing.
3. Notwithstanding the provisions applicable to Item 9840-001-494, if at any time during the fiscal year the average credential processing turnaround time exceeds 45 calendar days, the Department of Finance shall authorize a deficiency expenditure pursuant to Section 11006 of the Government Code to augment the number of authorized positions to assist in lowering the credential processing turnaround time to less than 30 calendar days. The Department of Finance shall report the deficiency authorization within 30 days of the date on which the deficiency authorization occurs.
4. Augmentation of $418,000 for implementation of an automated certification process is available only if the Department of Finance determines the fund condition permits the expenditure. Otherwise only $35,000 of the augmentation is available.

6420-001-001—For support of California Postsecondary Education Commission 2,760,000

Schedule:

(a) 100000-Personal Services	2,207,000
(b) 300000-Operating Expenses and Equipment	577,000
(c) Amount payable from the Federal Trust Fund (Item 6420-001-890) ..	−24,000

6420-001-890—For support of California Postsecondary Education Commission, to be transferred to Item 6420-001-001, payable from the Federal Trust Fund 24,000

6420-490—Reappropriation, California Postsecondary Education Commission. Notwithstanding any other provision of law, the $262,000 appropriated in Item 6420-001-001 of the Budget Act of 1984 for office automation including word processing equipment and installation, is hereby reappropriated for the same purpose. Before any expenditures are made for office automation from these funds or any augmentation to the commission for office automation, the California Postsecondary Education Commission shall adhere to all State Administrative Manual requirements relating to EDP, including Department of Finance approval of a feasibility study report, the procurement document and the resultant contract for acquisition, and any additional requirements which the Department of Finance determines to be necessary to insure that this project is completed in an efficient manner. Upon acquisition of this equipment, the

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	California Postsecondary Education Commission shall conduct a study to evaluate the increased benefits derived from the use of this equipment. This study shall be submitted to the Department of Finance in accordance with an evaluation plan contained in the commission's feasibility study report.	
6440-001-001—For support of University of California..		1,516,561,400
	Schedule:	
	(a) Support	1,499,604,400
	(b) Charles Drew Medical Program	5,365,000
	(c) Podiatry Program	745,000
	(d) Center for Global Peace	200,000
	(e) Mathematics, Engineering and Science Achievement (MESA)	1,447,000
	(f) Acquired Immune Deficiency Syndrome (AIDS) Research	9,200,000
	Provisions:	
	1. The appropriations from these funds are exempt from Section 31 of this act.	
	2. None of the funds appropriated may be expended to initiate major capital outlay projects, either by contract or lease-purchase agreement, without prior legislative approval, except for cogeneration and energy conservation projects. Exempted projects shall be reported under the provisions of Section 28 of this act.	
	3. The funds appropriated in category (b) are for support of University of California program of clinical health sciences education, research, and public service, conducted in conjunction with the Charles R. Drew Postgraduate Medical School, as provided for in Sections 1, 2, and 3 of Chapter 1140 of the Statutes of 1973.	
	4. The University of California shall ensure by adequate controls that funds appropriated by Schedule (b) are expended solely for the support of such programs.	
	5. The funds appropriated by Schedule (c) are for support of a program of basic and clinical health science education and primary health care delivery research in the field of podiatry, University of California, to be conducted in conjunction with the California College of Podiatric Medicine as provided for in Sections 1 and 4, inclusive, of Chapter 1497, Statutes of 1974.	
	6. Of the amount in Schedule (a), $2,629,957 shall be available for expenditure only for support of the Northern and Southern Occupational Health Centers as established by a contract entered into with the Department of Industrial Relations pursuant to Section 50.8 of the Labor Code.	

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7. Of the funds appropriated in Schedule (f), $3,900,000 shall be available only for expenditure to support research into Acquired Immune Deficiency Syndrome (AIDS) within the University of California. Of this amount, $1,000,000 shall be available to fund research into AIDS in conjunction with non-University of California institutions, $1,600,000 shall be made available for career development awards to encourage the entry of additional researchers into the field of AIDS, and $2,300,000 shall be available for research into AIDS with particular emphasis upon: the replacement of funds lost as a result of funding cutbacks by the National Institute of Health; the funding of clinical drug trials at those centers which have been accredited to conduct such trials, which funding may include the administrative apparatus necessary to monitor trial results; and the providing of resources necessary to conduct viral cultures of AIDS causative and related agents. In addition, $400,000 shall be made available to the Institute for Health Policy Studies at the University of California at San Francisco to conduct a study for the Legislature on the medical costs associated with AIDS.
8. $4,080,000 of the amount in Schedule (a) shall be available only for microelectronics research, and shall be expended subject to the oversight and policy direction of a committee, to be appointed by the president of the university and to consist of equal numbers of state government, university, and electronics or semiconductor, or both, industry representatives, for the purposes of advancing appropriate research and graduate education in microelectronics research, including innovative research in microelectronics technology, its applications in computer and information sciences, and its necessary antecedents in other physical science disciplines.

   The expenditure of the $4,080,000 available for microelectronic research shall also be subject to the following conditions:

   (1) The university may utilize no more than $204,000 of the $4,080,000 for administrative and related costs.
   (2) The university may utilize a portion of the $4,080,000 as support for graduate student education and related professional teaching support.
   (3) To the extent possible, expenditures subject to the limits in paragraphs (1) and (2) shall be reimbursed through the joint research projects specified in paragraph (4).
   (4) The balance of the appropriation shall be used to fund industry/academic joint research projects for the policy purposes noted above, on a project-by-project basis, with

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a one-to-one match in total from the $4,080,000 and an industry contribution respectively.

9. No funds appropriated by this act may be used by the Regents of the University of California to reclassify instructional capacity space, administrative space, library space, or faculty offices to other uses unless and until any such proposed reclassification is first approved by the Department of Finance and 30 days' written notification is provided to the Chairperson of the Joint Legislative Budget Committee or his or her designee, or not sooner than such lesser time as the chairperson of such committee, or his or her designee, may in each instance determine.

10. Since it is the intent of the Legislature in enacting this act that no qualified student be denied admission to the University of California because of a budget deficiency caused by unanticipated additional enrollments, the Director of Finance may, following the adoption of a resolution by the Regents of the University of California declaring an enrollment emergency, authorize the accelerated expenditure of amounts budgeted for the university, in the form of an agreement to seek a supplementary appropriation from the General Fund to the extent necessary to ensure that all qualified students can be admitted when the Director of Finance certifies that the systemwide enrollment of the University of California exceeds by 2 percent or more the enrollment upon which the budget for the university was based; provided, that no increased expenditure may exceed $6,000,000 in the aggregate for both the University of California and the California State University or be authorized 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 not sooner than such lesser time as the chairperson of such committee, or his or her designee, may in each instance determine.

In the event that the systemwide enrollment of the University of California is under the budgeted enrollment by more than 2 percent, such excess shall be unallocated by the Director of Finance. Unallocated funds may be reallocated to preclude layoffs only after the Director of Finance has approved such action and shall not be authorized 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 not sooner than such lesser time

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	as the chairperson of such committee, or his or her designee, may in each instance determine. For purposes of this provision, graduate enrollments of the University of California shall be excluded from all calculations.	
	11. Of the funds appropriated in Schedule (a), $1,200,000 shall be provided for the California Mathematics Project (CMP) to operate at least 15 centers in 1985–86. If the CMP does not operate 15 centers in 1985–86, the appropriation shall be reduced by $80,000 for each center under 15.	
	12. The funds appropriated in Schedule (e) shall not be available for expenditure unless nonstate matching funds equal to or exceeding one-half of the amount herein appropriated are obtained for this program on or before June 30, 1986. If insufficient matching funds are obtained to fully expend this appropriation at the 2:1 ratio, then the amount allocated for this program shall be reduced to twice the amount of matching funds provided.	
	13. Of the funds appropriated in Schedule (a), $2,000,000 shall be available for additional janitorial services. It is intended that these additional services be performed by university employees only, and not by contract personnel.	
	14. Of the funds appropriated in Schedule (a), $651,000 shall be for research to establish the magnitude of the current salinity, drainage, and toxicity problems in the San Joaquin Valley and to evaluate existing information on the accumulation of constituents of concern in the food chain.	
6440-001-036—For support of University of California, payable from the Special Account for Capital Outlay		12,445,000
6440-001-046—For support of University of California, Institute of Transportation Studies, payable from the Transportation Planning and Development Account, State Transportation Fund		956,000
6440-001-140—For support of University of California, Conifer Germplasm Conservation Project and White Oak Regeneration Project, payable from the California Environmental License Plate Fund		210,000
6440-001-144—For support of University of California, Research in Mosquito Control, payable from the California Water Fund		100,000
6440-001-814—For support of University of California, for allocation by the State Controller in accordance with the provisions of Government Code Section 8880.5 as enacted by the voters in Proposition 37 at the November 1984 General Election		7,425,000

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Provisions:

1. All funds received pursuant to Proposition 37 that are allocable to the University of California pursuant to Section 8880.5 of the Government Code and that are in excess of the amount appropriated in this item are hereby appropriated in augmentation of this item.

6440-006-001—For support of the University of California, in addition to, and in augmentation of Item 6440-001-001, Program 45, Student Financial Aid, to provide financial aid to needy students attending the University of California, according to the nationally accepted needs analysis methodology 23,644,000

6440-011-001—For support of University of California, for augmentation for employee compensation 94,699,000

Provisions:

1. The funds herein appropriated are for compensation increases, increases in benefits related thereto, and other benefits, to be allocated by the Department of Finance, in augmentation of Item 6440-001-001, in such amounts as will make sufficient money available for each employee of the University of California whose compensation, or portion thereof, is chargeable to the General Fund, to receive any such increases provided on or after July 1, 1985, by the Regents of the University of California.
2. Amounts proposed for employee compensation increases constitute the total increase in compensation for all employees of the University of California for the 1985–86 fiscal year. Funds appropriated for employee compensation increases are to be allocated by executive order of the Department of Finance to the Regents of the University of California for employees of the University of California, in accordance with salary and benefit schedules established by the Regents of the University of California.
3. Of the funds appropriated in this item, $10,494,000 shall be for a 3.1 percent faculty salary increase effective January 1, 1986.

6440-012-001—For support of University of California for augmentation for employee compensation 5,055,000

The funds appropriated by this item are to be used solely for pay equity adjustments related to the comparability of the value of the work to be allocated by the Department of Finance to the University of California in augmentation of their appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to the General Fund, to receive any such pay equity adjustments provided on or after January 1, 1986, by the Regents of the University of California. Appropriated funds are to be allocated proportionally: (a) to each of the bar-

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gaining units representing employees of the University of California based on the number of employees in female-dominated classifications within each of these units and (b) to the University of California for nonrepresented employees based on the number of employees in female-dominated nonrepresented classes of the university. Distribution of any appropriated funds within each bargaining unit shall be determined by memoranda of understanding between the Regents of the University of California and the exclusive representatives representing University of California employees. Bargaining over pay equity adjustments made from these funds shall not commence prior to the implementation of regular 1985–86 employee compensation adjustments. Pay equity adjustments shall not be retroactive to any time prior to January 1, 1986. Funds appropriated for pay equity adjustments related to comparability of the value of the work are to be allocated by executive order of the Department of Finance in accordance with approved memoranda of understanding, or, for employees excluded from collective bargaining in a manner consistent with Section 19827.2 of the Government Code.		
6440-016-001—For transfer to the University of California for support of the teaching hospitals at Irvine, San Diego, and Sacramento, upon the order of the Director of Finance		15,000,000
6440-026-001—For a management study University of California hospitals at Davis, Irvine and San Diego		450,000
6440-301-146—For Capital Outlay, University of California, payable from the Capital Outlay Fund for Public Higher Education		42,531,000
Schedule:		
Universitywide:		
(1) 99.00.005—Minor capital outlay, including $1,000,000 for hazardous asbestos removal	10,500,000	
(2) 99.00.010-Project programming and preliminary plans	200,000	
(3) 99.00.015-Equip southern regional library compact shelving facility	1,045,000	
Berkeley Campus:		
(4) 99.01.005-Preliminary plans and working drawings, Genetics and Plant Biology Building	1,601,000	
(5) 99.01.010-Working drawings and construct animal facility corrections, Step 3	607,000	
(6) 99.01.015-Partial preliminary plans, Life Science Building renovation	588,000	
(7) 99.01.020-Initial planning study for Doe and Moffitt libraries	375,000	

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(8) 99.01.025-Preliminary plans and working drawings, Etcheverry Hall alterations	130,000
(9) 99.01.040-Preliminary plans and working drawings, seismic safety corrections, South Hall	346,000
(10) 99.01.045-Preliminary plans and working drawings, campus electrical distribution system expansion and renovation, Step 1	276,000
(11) 99.01.050-Working drawings and construct handicapped access improvements, Step 4	578,000
Davis Campus Health Sciences:	
(12) 99.03.005-Annual payment toward the purchase of Sacramento Medical Center	200,000
Davis Campus:	
(14) 99.03.015-Preliminary plans and working drawings, Hart Hall remodel	600,000
(15) 99.03.020-Preliminary plans, Shields library alterations and expansion	1,340,000
(16) 99.03.025-Preliminary plans and working drawings, Asmundson Hall and Mann Laboratory remodel	300,000
(18) 99.03.035-Working drawings and construct handicapped access improvements, Step 3	666,000
Irvine Campus:	
(19) 99.09.010-Equip main library alterations	83,000
(20) 99.09.020-Preliminary plans for Physical Sciences Unit 2	667,000
Irvine Campus Health Sciences:	
(21) 99.09.005-Equip diagnostic services module, UCIMC	212,000
(22) 99.09.035-Working drawings and construct Med Surge II air handling system improvements	502,000
Los Angeles Campus:	
(23) 99.04.005-Working drawings and construct law school addition and related alterations	7,102,000
(24) 99.04.010-Working drawings, School of Engineering and Applied Sciences expansion	1,274,000
(25) 99.04.015-Construct and equip multi-media learning laboratory	1,323,000
(26) 99.04.020-Preliminary plans for School of Engineering and Applied Sciences retrofit	302,000

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(27) 99.04.025-Correct California Administrative Code deficiencies, elevators	2,661,000
Riverside Campus:	
(28) 99.05.005-Preliminary plans and working drawings, replacement of greenhouses 1–5	114,000
(29) 99.05.010-Preliminary plans and working drawings, hazardous waste facility	45,000
(30) 99.05.030-Working drawings and construct handicapped access alterations, Step 2	586,000
San Diego Campus:	
(31) 99.06.015-Preliminary plans for instruction and research facility	400,000
(32) 99.06.025-Preliminary plans and working drawings, improvements to air handling systems, Urey Hall	108,000
Scripps Institution of Oceanography-Marine Sciences:	
San Francisco Campus:	
(34) 99.02.005-Preliminary plans for campus library	1,200,000
(35) 99.02.010-Working drawings and construct hormone research laboratory improvements	803,000
(36) 99.02.015-Working drawings and construct pharmacology laboratory for cell biology research	706,000
(37) 99.02.020-Working drawings and construct Clinical Sciences building elevator replacement	596,000
(38) 99.02.025-Working drawings and construction, pharmaceutical technology laboratory relocation	871,000
Santa Barbara Campus:	
(40) 99.08.010-Preliminary plans and working drawings, biotechnology seawater laboratory	428,000
Santa Cruz Campus:	
(42) 99.07.005-Working drawings, construct and equip, alterations to Applied Sciences building for computer engineering	2,263,000
(43) 99.07.010-Preliminary plans for natural sciences, Unit 3	550,000
Agriculture and Natural Resources:	
(44) 99.10.005-Preliminary plans and working drawings, Kearney agricultural center development	383,000

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Provisions:		
1. Funds appropriated for project (2) shall be released only for those major capital outlay projects for which working drawings and construction are anticipated to be included in the 1986–87 Governor's Budget, except that a maximum of $100,000 shall be available for expenditure on July 1, 1985, for utility and site development and for development of environmental impact reports for major capital outlay projects, and for development of benefit/cost analyses of planning alternatives for proposed 1987–88 Capital Outlay projects.		
2. The University of California shall be reimbursed for expenditures made prior to the effective date of this act for preliminary plans for projects included in this schedule, provided those expenditures were made for the purpose for which the funds are appropriated by this act or subsequent acts and all other applicable procedures were followed by the University in expending the funds. The advance of University funds for projects included in this schedule will result in early completion of the projects contained in this schedule. The University of California shall report on or before November 1 of each year to the Department of Finance and the Joint Legislative Budget Committee all reimbursements claimed under this provision.		
3. The University of California shall undertake a review of the design of the Los Angeles Law School Addition and Alterations project, Schedule (23). This review shall include a detailed value engineering assessment of this project. The University of California shall report to the fiscal committees and the Joint Legislative Budget Committee on the results of this effort.		
6440-301-525—For Capital Outlay, State Public Works Board, payable from the High Technology Education Revenue Bond Fund from the proceeds from the sale of bonds, negotiable notes or negotiable bond anticipation notes for the construction of University of California facilities pursuant to Chapter 1268, Statutes of 1983		94,368,000
Schedule:		
Los Angeles Campus:		
(1) 99.04.010-Construct School of Engineering and Applied Sciences expansion	44,114,000	
San Diego Campus:		
(2) 99.06.005-Construct Engineering Building Unit 1	33,070,000	
Irvine Campus:		
(3) 99.09.015-Construct engineering laboratory facility	5,050,000	
Davis Campus:		

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(4) 99.03.010-Equip Food and Agricultural Sciences Building	4,682,000	
Scripps Institution of Oceanography-Marine Sciences:		
(5) 99.06.010-Construct 510 seawater supply system and pier replacement	3,065,000	
Santa Barbara Campus:		
(6) 99.08.005-Equipment Engineering Unit 2	4,387,000	
Provisions:		
1. In addition to the cost of construction, the State Public Works Board may authorize any additional amounts necessary to pay the costs of financing, including interest during construction of the project, a reasonably required reserve fund, and the cost of issuance of permanent financing after completion of the project.		
2. The State Public Works Board may authorize the augmentation of the cost of the construction of the projects set forth in this item under the board's authority under Section 13332.11 of the Government Code.		
3. The University of California shall undertake a review of the design of the Los Angeles School of Engineering and Applied Sciences Expansion project, Schedule (1). This review shall include a detailed value engineering assessment of this project. The University of California shall report to the legislative fiscal committees and the Joint Legislative Budget Committee on the results of this effort.		
6440-311-146—For capital outlay, University of California, payable from the Capital Outlay Fund for Public Higher Education		11,674,000
Schedule:		
Irvine Campus Health Sciences		
(1) 99.09.025-Preliminary plans, working drawings and construct primary electrical improvements, Phase 2, USIMC	1,487,000	
(2) 99.09.035-Preliminary plans, working drawings, construction and equipment for Intensive Care unit and Support System Renovation, UCIMC	6,003,000	
San Diego Campus Health Sciences		
(3) 99.06.035-Working drawings and construction for Intensive Care unit modernization and consolidation	4,184,000	

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Provisions:

1. It is the policy of the Legislature that the teaching hospitals shall finance capital improvement projects from hospital reserve funds. The approval of state funds for the budget year for hospital capital outlay projects is based on the unique financial circumstances which the teaching hospitals face in the budget year. Therefore, funding of these projects does not represent a commitment to finance similar projects in the future.

6440-401—The Regents of the University of California shall not undertake any project funded from the Health Sciences Hospital Reserve Fund, which is in excess of $200,000, unless the scope and cost of any such project is approved by the Director of Finance and 30 days' written notification is provided to the Chairperson of the Joint Legislative Budget Committee or his or her designee, or not sooner than such lesser time as the chairperson of such committee, or his or her designee, may in each instance determine. Any project funded from the Health Sciences Hospital Reserve Fund, of less than $200,000, shall be reported to the Chairperson of the Joint Legislative Budget Committee by December 1 of each fiscal year. Any urgent project concerned with patient life or safety may proceed without prior approval or notification but such project shall be identified in the report provided each December 1.

The university shall provide to the Director of Finance and the Chairperson of the Joint Legislative Buget Committee a payback analysis for each project and the reasons offered to justify expenditure for the project on either a financial, an academic program, or a basic patient care need basis. This requirement shall not apply to fire and safety code projects in inpatient areas or urgent projects concerning patient life or safety.

The university may also propose the use of hospital reserves for the purchase of replacement or new equipment. The university shall submit an annual plan for equipment purchases which justifies proposed purchases on a financial, an academic program, or a patient care need basis.

6440-490—Reappropriation, University of California. Notwithstanding any other provision of law, the unencumbered balance, as of June 30, 1985, of the appropriation made in Item 6440-001-001 of the Budget Act of 1984, is hereby reappropriated for replacement of instructional equipment, deferred maintenance, and special repair projects, and shall be available for encumbrance until June 30, 1986.

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Provision:

1. The University of California shall report to the Department of Finance and the Joint Legislative Budget Committee the amount of the unencumbered balance, on June 30, 1985, of Item 6440-001-001 of the Budget Act of 1984, by September 30, 1985, and the expenditures made pursuant to this item by September 30, 1986.

6440-491—Reappropriation, University of California.

Notwithstanding any other provision of law, the unencumbered balances of the appropriations provided in the following citation are reappropriated on the effective date of this act for the purposes provided for in those appropriations, and shall be available for expenditure until June 30, 1986:

146-Capital Outlay Fund For Public Higher Education

(1) Santa Barbara Campus:
Item 6440-301-146(4), Budget Act of 1984, contribution toward sewer plant improvement.

6600-001-001—For support of Hastings College of the Law 10,390,000

Schedule:

(a)	100000-Personal Services	9,834,000
(b)	300000-Operating Expenses and Equipment	2,861,000
(c)	400000-Special Items of Expense ..	829,000
(d)	Reimbursements	−2,633,000
(e)	Amount payable from the Federal Trust Fund (Item 6600-001-890) ..	−501,000

Provisions:

1 The appropriations from these funds are exempt from Section 31.00 of this act.

6600-001-890—For support of Hastings College of the Law, to be transferred to Item 6600-001-001, amount payable from the Federal Trust Fund 501,000

6600-006-001—For support of Hastings College of the Law, in addition to, and in augmentation of Item 6600-001-001, Program 40, Student Services, to provide financial aid to needy students attending Hastings College of the Law, according to the nationally accepted needs analysis methodology 434,000

6600-011-001—For support of Hastings College of the Law, for augmentation for employee compensation 595,566

Provisions:

1. The funds herein appropriated are for compensation increases, increases in benefits related thereto, and other benefits, to be allocated by the Department of Finance, in augmentation of Item 6600-001-001 or allocations for support or for other purposes, in such amounts as will make sufficient money available for each employee of Hastings College of the Law whose compensation, or portion thereof, is chargeable to the

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General Fund, to receive any such increase provided on or after July 1, 1985, by the Directors of Hastings College of the Law.

2. Amounts proposed for employee compensation increases constitute the total increase in compensation for employees of Hastings College of the Law for the 1985–86 fiscal year. Funds appropriated for employee compensation increases are to be allocated by executive order of the Department of Finance to the Directors of Hastings College of the Law for the employees of Hastings College of the Law in accordance with salary and benefit schedules established by the Directors of Hastings College of the Law.
3. Of the funds appropriated in this item, $76,200 shall be for a 3.1 percent faculty salary increase effective January 1, 1986.

6600-012-001—For support of Hastings College of the Law, for augmentation for employee compensation 26,000

Provisions:

The funds appropriated in this item are to be used solely for pay equity adjustments related to the comparability of the value of the work to be allocated by the Department of Finance to Hastings College of the Law in augmentation of their appropriations or allocations for support or for other purposes in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to the General Fund, to receive any such pay equity adjustments provided on or after January 1, 1986, by the Directors of Hastings College of the Law. Appropriated funds are to be allocated proportionally: (a) to each of the bargaining units representing employees of Hastings College of the Law, based on the number of employees in female-dominated classifications within each of these units, and (b) to Hastings College of the Law for nonrepresented employees based on the number of employees in female-dominated nonrepresented classes of Hastings College of the Law. Distribution of any appropriated funds within each bargaining unit shall be determined by memoranda of understanding between the Directors of Hastings College of the Law and the exclusive representatives representing Hastings College of the Law employees.

Bargaining over pay equity adjustments made from these funds shall not commence prior to the implementation of regular 1985–86 employee compensation adjustments. Pay equity adjustments shall not be retroactive to any time prior to January 1, 1986.

Funds appropriated for pay equity adjustments related to comparability of the value of

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	the work are to be allocated by executive order of the Department of Finance in accordance with approved memoranda of understanding, or for employees excluded from collective bargaining, in a manner consistent with Section 19827.2 of the Government Code.	
6610-001-001—For support of Trustees of the California State University and the California State University		1,170,323,000
Schedule:		
(a) 01-Instruction	809,576,000	
(b) 03-Public Service	930,000	
(c) 04-Academic Support	149,702,000	
(d) 05-Student Service	114,724,000	
(e) 06-Institutional Support	317,017,000	
(f) 07-Independent Operations	44,511,000	
(h) Reimbursements	−266,448,000	
(i) Special Adjustment—Cost-of-Living Increase	311,000	
Provisions:		
1. The funds appropriated in this item shall be subject to the provisions of Section 13320 of the Government Code and applicable Budget Act restrictions with the following exceptions:		
(a) The trustees may transfer excess salary savings funds from the salary savings reserve allotments to expenditure allotments provided such transfers do not exceed 20 percent of salary savings. Excess salary savings funds are those in excess of the amount budgeted.		
(b) The trustees may approve transfer of funds between one or more of the programs for which funds are appropriated for the support of the California State University.		
Any transfer of funds made under the above exceptions shall be reported to the Department of Finance and Joint Legislative Budget Committee within 30 days after the end of each quarter in which such transfer was approved.		
2. The funds appropriated in this item may be reallocated upon order of the Trustees of the California State University subject to being reported to the Department of Finance; provided that no instructional faculty positions authorized for the 1985–86 fiscal year shall be used for administration, administrative assistance, department chairmanships, or noninstructional research.		
3. No portion of the funds appropriated in this item for instructionally related activities may be expended for intercollegiate athletics.		

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4. No funds appropriated in this item or Item 6610-021-036 or Item 6610-301-146 may be used by the Trustees of the California State University to reclassify instructional capacity space, administrative space, library space, or faculty offices to other uses unless and until any such proposed reclassification is first approved by the Department of Finance and 30 days' written notification is provided to the Chairperson of the Joint Legislative Budget Committee or his or her designee, or not sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.

5. Since it is the intent of the Legislature in enacting this act that no qualified student be denied admission to the California State University because of a budget deficiency caused by unanticipated additional enrollments, the Director of Finance may, following the adoption of a resolution by the Trustees of the California State University declaring an enrollment emergency, authorize the accelerated expenditure of amounts budgeted for the state university, in the form of an agreement to seek a supplementary appropriation from the General Fund to the extent necessary to ensure that all qualified students can be admitted when the Director of Finance certifies that the systemwide enrollment of the California State University exceeds by 2 percent or more the enrollment upon which the budget for the state university was based; *provided, that no increased expenditure* may exceed $6,000,000 in the aggregate for both the California State University and the University of California or be authorized 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 not sooner than such lesser time as the chairperson of such committee, or his or her designee, may in each instance determine.

In the event that the systemwide enrollment of the California State University is under the budgeted enrollment by more than 2 percent, such excess shall be unallocated by the Director of Finance. Unallocated funds may be reallocated to preclude layoffs only after the Director of Finance has approved such action and shall not be authorized 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 not sooner than such lesser time as the chairperson of such committee, or his or her designee, may in each instance determine.

Based upon fall annualized full-time equiva-

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lent (FTE) students, all surplus funds withdrawn from any campus consistent with the policy of the California State University (CSU) system due to fluctuations in student enrollments, shall be returned:

(a) To campuses with enrollments in excess of the budgeted level consistent with the CSU policy and

(b) To all campuses for allocation to the programs of "Instruction" and "Academic Support".

"Surplus" is defined as those funds in excess of that returned to the state pursuant to this section. No exceptions to the above prescribed allocation may be made unless prior approval is given by the Department of Finance and is reported to the Chairperson of the Joint Legislative Budget Committee, and the financial necessity of any such exception shall be identified.

6. Of the amount available in this item for Academic Support, computing support, $1,000,000 related to the development and implementation of the Administrative Information Management System project, or such funds which may be allocated by the California State University from Item 6610-490, shall not be available for expenditure without prior approval of the Feasibility Study reports by the Office of Information Technology (OIT) in the Department of Finance and notification of the approval to the Joint Legislative Budget Committee.
7. The funds appropriated in this item for Program 05—Student Service, to provide financial aid to California State University students, shall be used to provide financial aid to needy students according to the nationally accepted needs analysis methodology.
8. Of the funds appropriated in this item, $308,000 shall be for sabbaticals for librarians.
9. Of the funds appropriated in this item, $737,000 shall be to fund the Center for Government Studies at the California State University Sacramento campus.
10. Of the funds appropriated in this item, $25,000 shall be to fund a diving safety officer for the Moss Landing Marine Laboratories.

6610-001-814—For support of Trustees of the California State University and the California State University, for allocation by the State Controller in accordance with the provisions of Government Code Section 8880.5, as enacted by the voters in Proposition 37 at the November, 1984, General Election 13,136,000

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Provisions:		
1. All funds received pursuant to Proposition 37 that are allocable to the California State University pursuant to Section 8880.5 of the Government Code and that are in excess of the amount appropriated in this item are hereby appropriated in augmentation of this item.		
6610-001-890—For support of Trustees of the California State University and the California State University for Student Service Program 05, payable from the Federal Trust Fund		68,962,000
6610-006-001—For transfer to the Affordable Student Housing Revolving Fund		350,000
Provisions:		
1. The funds appropriated by this item are for the purpose of subsidizing interest costs in connection with bond financing for construction of affordable student housing at the Fullerton and Hayward Campuses in accordance with the provisions of Article 3 (commencing with Section 90085) of Chapter 8 of Part 55 of the Education Code.		
6610-021-036—For support of Trustees of the California State University and the California State University, payable from the Special Account for Capital Outlay		13,716,000
Schedule:		
(a) 06-Institutional Support (deferred maintenance and special repair projects)	13,716,000	
Provisions:		
1. Notwithstanding the provisions of Section 2.00 of this act, the funds appropriated by category (a) shall be available for expenditure until June 30, 1987.		
6610-031-001—For support of Trustees of the California State University and the California State University, for augmentation for employee compensation		86,618,000
Schedule:		
10-Unallocated Employee Compensation Increase	82,043,000	
Provisions:		
1. The funds herein appropriated are for compensation increases, increases in benefits related thereto, and other benefits, to be allocated by the Department of Finance, in augmentation of Item 6610-001-001 or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to the General Fund, to receive any such increases provided on or after July 1, 1985 by the Trustees of the California State University.		

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2. Amounts proposed for employee compensation increases constitute the total increase in compensation for all employees of the California State University for the 1985–86 fiscal year. Funds appropriated for employee compensation increases are to be allocated by executive order of the Department of Finance to the Trustees of the California State University in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining in units not yet certified, or in units that are certified but are not bargaining for a 1985–86 memorandum of understanding as of the date of this act, in accordance with salary and benefit schedules established by the Trustees of the California State University.
3. Of the funds appropriated in this item, $9,897,000 shall be for an average 3.1 percent faculty salary increase effective January 1, 1986.
4. Of the funds appropriated in this item, $905,000 shall be available for an average 1.7 percent faculty salary increase effective June 1, 1986.
5. Of the funds appropriated in this item, $4,575,000 shall be available to the Trustees of the California State University for augmentation of nonfaculty compensation and benefits.

6610-033-001—For support of the Trustees of the California State University and the California State University for augmentation for employee compensation 4,067,000

Schedule:

10-Unallocated Salary Increase 4,067,000

Provisions:

1. The funds appropriated by this item are to be used solely for pay equity adjustments related to the comparability of the value of the work to be allocated by the Department of Finance to the California State University in augmentation of their appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to the General Fund, to receive any such pay equity adjustments provided on or after January 1, 1986, by the Trustees of the California State University. Appropriated funds are to be allocated proportionally (a) to each of the bargaining units representing employees of the California State University, based on the number of employees in female-dominated classifications within each of these units, and (b) to the California State University for nonrepresented employees in female-dominated nonrepresented classes of the California State University. Distribution of any appropriated funds within each bargaining unit shall be determined by memo-

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randa of understanding between the Trustees of the California State University and the exclusive representative representing California State University employees.

Bargaining over pay equity adjustments made from these funds shall not commence prior to the implementation of regular 1985–86 employee compensation adjustments. Pay equity adjustments shall not be retroactive to any time prior to January 1, 1986.

Funds appropriated for pay equity adjustments related to the comparability of the value of the work shall be allocated by executive order of the Department of Finance in accordance with approved memoranda of understanding, or, for employees excluded from collective bargaining, in a manner consistent with Section 19827.2 of the Government Code.

6610-035-001—For support of Trustees of the California State University and the California State University, for augmentation for employee compensation 3,175,000

Schedule:

10. Unallocated Employee Compensation Increase 3,175,000

Provisions:

1. The funds appropriated in this item are for compensation increases, increases in benefits related thereto, and other benefits, to be allocated by the Department of Finance, in augmentation of Item 6610-001-001 or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to the General Fund, to receive any such increases provided on or after July 1, 1985 by the Trustees of the California State University.
2. Amounts proposed for employee compensation increases constitute the total increase in compensation for all employees of the California State University for the 1985–86 fiscal year. Funds appropriated for employee compensation increases are to be allocated by executive order of the Department of Finance to the Trustees of the California State University in accordance with approved memoranda of understanding.
3. The funds appropriated in this item shall be available for the special salary schedule for faculty in hard-to-hire disciplines.

6610-301-146—For Capital Outlay, Trustees of the California State University and the California State University, payable from the Capital Outlay Fund for Public Higher Education 42,921,000

Item		Amount
Schedule:		
Systemwide—Trustees of the California State University:		
(1) 06.48.136-Working drawings and removal of architectural barriers to the handicapped		2,684,000
California State University, Chico:		
(a) Modify elevators campuswide	(68,000)	
Humboldt State University:		
(b) Elevator for Industrial Arts building	(76,000)	
(c) Elevator for Wildlife building	(164,000)	
(d) Elevator for Forestry building	(169,000)	
California State University, Long Beach:		
(e) Overhead walks between seven buildings in Liberal Arts	(837,000)	
California State University, Northridge:		
(f) Elevator for physical education	(170,000)	
San Diego State University:		
(g) Modify elevator controls for Chemistry-Geology, Physics-Astronomy and Life Science buildings	(18,000)	
(h) Elevator and corridor for Peterson gymnasium	(268,000)	
(i) Elevator for dramatic arts	(148,000)	
San Francisco State University:		
(j) Elevator for Creative Arts building for access to film department	(144,000)	
(k) Elevator for Creative Arts building for access to Broadcast Communication Arts	(202,000)	
(*l*) Elevator for Old Administration building	(165,000)	
(n) Elevator for Business Tower	(123,000)	
California State University, San Jose:		
(o) Modify T.V. and Radio Control rooms	(132,000)	
(2) 06.48.313-Preliminary planning, including energy projects		200,000

Item	Amount
(3.a.) 06.48.315—Statewide Minor Capital Outlay	5,500,000
(3.b.) 06.48.317—Removal of Hazardous Asbestos	2,500,000
(4) 06.48.318-Minor projects, energy conservation retrofits	1,500,000
California State University, Chico:	
(5) 06.52.091-Complete unfinished space in library	1,870,000
California State University, Fresno:	
(6) 06.56.076-Construct business building	9,557,000
California State University, Fullerton:	
(7) 06.62.061-Equip library conversion	427,000
(8) 06.62.066-Preliminary plans and working drawings, engineering building addition	321,000
Humboldt State University:	
(9) 06.67.070-Remodel Science Building	595,000
California State Polytechnic University, Pomona:	
(11) 06.98.089-Preliminary plans and working drawings, library addition	326,000
(12) 06.98.090-Preliminary plans and working drawings, Music Building/office building	176,000
California State University, Sacramento:	
(13) 06.76.075-Preliminary plans and working drawings, Engineering/ Computer Science addition	460,000
California State College, San Bernardino:	
(14) 06.78.067-Construct faculty office building	2,106,000
San Diego State University:	
(15) 06.80.058-Construct Physical Science Building rehabilitation	2,141,000
(16) 06.80.093-Equip Old Library rehabilitation	158,000
(17) 06.80.104-Preliminary plans and working drawings, Life Science Building rehabilitation	248,000
San Francisco State University:	
(18) 06.84.042-Equip converted Old Science Building	383,000
(19) 06.84.058-Working drawings and construction, Science Building chemical fume hoods	233,000
(20) 06.84.059-Preliminary plans and working drawings, faculty office addition to Science Building	86,000
(21) 06.84.073-Remodel Business Building	1,126,000
San Jose State University:	
(22) 06.86.083-Remodel Old Library (Wahlquist) for administration	1,575,000

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California Polytechnic State University, San Luis Obispo:	
(23) 06.96.072-Equip converted library	779,000
(24) 06.96.083-Equip Engineering South	1,779,000
California State College, Stanislaus:	
(25) 06.92.050-Preliminary plans and working drawings, Library II	325,000
(26) California State College, Bakersfield: 06.50.047-Preliminary plans and working drawings, Gymnasium	208,000
(27) California State University, Los Angeles: 06.73.080-Preliminary plans and working drawings, Remodel Fine Arts Building	124,000
(28) California State University, Northridge: 06.82.057-Preliminary plans and working drawings, Science addition and remodel	827,000
(29) San Jose State University, 06.86.087-Preliminary plans, Engineering Building	525,000
(30) Sonoma State University: 06.90.055-Working drawings and construction, Theater Arts Building	4,182,000

Provisions:

1. Notwithstanding the provisions of Section 2.00 of this act, the appropriations made for equipment items only shall be available for expenditure only during the 1985–86 and 1986–87 fiscal years.
2. Withdrawals shall be as required to meet current obligations as certified by the Trustees of the California State University.
3. Funds appropriated in category (2) shall be available only for those major capital outlay projects for which working drawing funds or working drawings and construction funds are expected to be included in the 1986–87 Governor's Budget, except that a maximum of $120,000 shall be available for expenditure on July 1, 1985, for utility and site development for major capital outlay projects, and for development of benefit/cost analyses of planning alternatives for proposed 1987–88 Capital Outlay Projects including Energy Projects.
4. The funds appropriated for library projects, categories (11) and (25) shall be available for expenditure only if the library study, which is to be completed February 1985, substantiates the need for these library facilities.

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6. Provided, that the CSU shall adopt an interim standard for utilization of self-instruction computer labs in high-technology disciplines based on nine hours of access per week for each full-time equivalent undergraduate student and 12 hours of access per week for full time graduate students. Stations are to be available 53 hours per week and controls will be used to insure their availability for course work on a priority basis.

7. The California Postsecondary Education Commission shall evaluate the use of non-scheduled, self-instruction computer laboratories in support of undergraduate and graduate instructional programs at the California State University and the University of California. The Commission's evaluation shall address at a minimum (1) the type of facilities needed, (2) an appropriate standard for utilization of facilities, (3) appropriate method or methods for establishing the number of student stations needed to support instructional programs, and (4) recommendations for statewide space guidelines to be used by higher education segments in planning for the capital outlay projects for new and remodeled facilities. The Commission shall submit its final report to the Legislature by December 1, 1985.

9. Provided, that funds appropriated in Schedule (29) for the San Jose Engineering Addition and Alterations project in this item shall be allocated by the State Public Works Board and the Department of Finance in accordance with the schedule and expenditure plan developed by the campus using the "Early Delivery System" design and construction technique. Notwithstanding any other provision of law, the Trustees of the California State University shall have all authority necessary to conduct the project using the "early delivery system" in accordance with the requirements of this item. The proposed procedures shall provide adequate information at the completion of the preliminary planning to justify future funding requirements for this project. Any future request for this project shall be based on the costs and schedules developed through the Early Delivery System procedures without regard to the base construction cost index established for projects budgeted in the 1986–87 Governor's Budget. The Early Delivery System implementation phase shall be developed by the campus with sufficient cost control procedures so that any funds appropriated for this project shall not require augmentation by administrative action pursuant to Section 16352 of the Government Code. The CSU shall submit a report on a quarterly basis to the Department of Finance, the Joint Legislative Budget Commit-

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tee, and the fiscal committees on the progress of the Early Delivery System. The report shall include the most recent information on the anticipated project cost and implementation schedule.

10. The procedures used by the Chancellor's Office in requesting and awarding construction bids for the Fresno Business Building, category (6) of this item, shall ensure that the award of contract represents the lowest responsible bid for the state-funded project, regardless of bids received on the nonstate funded project (Business Center). If the lowest responsible bid on the combined project does not include the lowest responsible bid for the state-funded project, the CSU shall use nonstate funds to offset the differential for the state-funded portion.
If the bids for the state-funded project are favorable, the CSU shall award a construction contract regardless of the bids on the nonstate funded project.

6610-301-525—For Capital Outlay, State Public Works Board, payable from High Technology Education Revenue Bond Fund from the proceeds from the sale of bonds, negotiable notes or negotiable bond anticipation notes for the construction of California State University facilities pursuant to Chapter 1268, Statutes of 1983 17,910,000

Schedule:

California State University, Long Beach:

(1) 06.71.086-Working Drawings and Construct Engineering/Computer Science/Math Lab and faculty offices 11,782,000

California Polytechnic State University, San Luis Obispo:

(2) 06.96.093-Construct Agriculture Science building 6,128,000

Provisions:

1. In addition to the cost of construction, the State Public Works Board may authorize any additional amounts necessary to pay the costs of financing, including interest during construction of the project, a reasonably required reserve fund and the cost of issuance of permanent financing after completion of the project.
2. The State Public Works Board may authorize the augmentation of the cost of the construction of the projects set forth in this item under the board's authority under Section 13332.11 of the Government Code.

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6610-490—Reappropriation, California State University. Notwithstanding any other provision of law, an amount not in excess of the unencumbered balance, as reported by the California State University as of June 30, 1985, of the appropriation made in Item 6610-001-001 of the Budget Act of 1984, is hereby reappropriated for replacement of instructional equipment, deferred maintenance, and special repair projects and development and implementation of the Administrative Information Management System project, and shall be available for encumbrance until June 30, 1987.

Provisions:

1. The California State University shall report to the Department of Finance and the Joint Legislative Budget Committee the amount of the unencumbered balance, on June 30, 1985, of Item 6610-001-001 of the Budget Act of 1984, by September 30, 1985, and the expenditures made pursuant to this item by September 30, 1986 and September 30, 1987.

6610-491—Reappropriation, California State University. Notwithstanding any other provision of law, an amount not to exceed $1,248,465 of the unencumbered balance, as reported by the California State University as of June 30, 1985, of the appropriation made in Item 6610-001-001 of the Budget Act of 1984, is hereby reappropriated for the local time-sharing systems within the California State University, and shall be available for encumbrance until June 30, 1986.

6610-492—Reappropriation, California State University. Notwithstanding any other provision of law, an amount not to exceed $2,000,000 of the unencumbered balance, as reported by the California State University as of June 30, 1985, of the appropriation made in Item 6610-001-001 of the Budget Act of 1984, is hereby reappropriated for the concurrent enrollment program, and shall be available for encumbrance until June 30, 1986.

6610-493—Reappropriation, California State University. Notwithstanding any other provision of law, the unencumbered balances of the appropriations provided in the following citation are reappropriated on the effective date of this act, for the purposes provided for in those appropriations, and shall be available for expenditure until June 30, 1986:

146—Capital Outlay Fund for Public Higher Education

1. Item 6610-301-146 of the Budget Act of 1984;

Systemwide:

(4) 06.48.318—Minor projects—energy conservation retrofits

San Diego State University:

(35) 06.73.080—Preliminary plans and working drawings, classroom/faculty office/student services building

State University, Long Beach:

Item		Amount
(39) 06.71.089—Preliminary plans and working drawings, renovation of chemistry laboratories		
Provisions:		
1. The California State University shall report to the Department of Finance and the Joint Legislative Budget Committee the amount of unencumbered balance on June 30, 1985, of Item 6610-301-146(4) of the Budget Act of 1984 by September 30, 1985, and the expenditures made pursuant to this item by September 30, 1986.		
6860-001-001—For support of California Maritime Academy		5,434,000
Schedule:		
(a) 100000-Personal Services	4,745,000	
(b) 300000-Operating Expenses and Equipment	3,043,000	
(c) 400000-Special items of Expense	364,000	
(d) Reimbursements	−2,058,000	
(e) Amount payable from the California Maritime Academy Continuing Education Revenue Fund (Item 6860-001-519)	−271,000	
(f) Amount payable from the Federal Trust Fund (Item 6860-001-890)	−389,000	
Provisions:		
1. Of the funds appropriated by this item, $422,000 shall be available for fuel oil purchases for the operation of the training ship, The Golden Bear. To the extent that federal funds become available for this purpose, the Director of Finance shall unallot and revert to the General Fund an amount of up to $422,000 and increase the amount of reimbursements scheduled in this item by a corresponding amount. The Director of Finance shall report these changes to the Joint Legislative Budget Committee.		
2. Of the funds appropriated by this item, $100,000 shall be available for a diesel engine for the Marine Engineering laboratory with additional funding to come from other sources. The $100,000 shall be available for encumbrance until June 30, 1987.		
6860-001-519—For support of California Maritime Academy, for transfer to Item 6860-001-001, payable from the California Maritime Academy Continuing Education Revenue Fund		271,000
6860-001-890—For support of California Maritime Academy, to be transferred to Item 6860-001-001, payable from the Federal Trust Fund		389,000
Provisions:		
1. The Department of Finance shall increase the funds appropriated in this item by the amount of federal funds received in 1985–86 for the purchase of fuel oil.		

Item		Amount
6860-301-146—For Capital Outlay, California Maritime Academy, payable from the Capital Outlay Fund for Public Higher Education		148,000
Schedule:		
70.68.005—Minor projects	148,000	
6870-001-001—For support of Board of Governors of the California Community Colleges		6,449,000
Schedule:		
(a) 10-Apportionments	1,245,000	
(b) 20-Special Services and Operations	6,968,000	
(c) 30.01-Administration	3,278,000	
(d) 30.02-Administration—Distributed	−3,078,000	
(e) Reimbursements	−1,808,000	
(f) Amount payable from the Federal Trust Fund (Item 6870-001-890)	−156,000	

Provisions:

1. Of the amount appropriated in this item, $40,000 is provided for State Operations in support of Instructional Improvement programs in lieu of any amount which otherwise would be appropriated for that purpose pursuant to Education Code Sections 84383 and 84384.
2. Of the amount appropriated in this item, $25,000 is provided for State Operations in support of the Cooperative Agencies Resources for Education program in accordance with the provisions of Chapter 1029, Statutes of 1982.
3. Upon certification by the Chancellor, the Controller shall transfer up to $90,000 from the amount appropriated in category (a) of Item 6870-101-001 to this item for the purpose of funding a Washington, D.C. office. This office shall be established for the purpose of representing the California Community Colleges before the various federal agencies and the Congress. Funds transferred pursuant to this provision shall not be considered in the calculation of any apportionment deficit.
4. Notwithstanding any other provision of law, of the amount appropriated for financial aid for the period July 1, 1985 to June 30, 1986 in Chapter 1, Second Extraordinary Session, Statutes of 1984, as amended by Chapter 1401, Statutes of 1984, an amount, not to exceed $200,000, may be used for the administration of this aid. The Chancellor shall certify to the Director of the Department of Finance the amount of funds needed. Upon review of this certification, the Director of Finance shall certify to the Controller the necessity for the additional funds. Upon receipt of the director's certification, the Controller shall transfer the amount certified in augmentation of Item 6870-001-001, Schedule (a)

Item		Amount
10—Apportionments in this Act.		
5. Of the amount appropriated in this item, $218,000 is provided for the acquisition and installation of office automation equipment. Before any expenditures are made relating to this acquisition, the Chancellor's Office must have Department of Finance approval of a Feasibility Study Report which clearly outlines the proposed benefits and resultant savings because of this acquisition.		
6870-001-165—For support of Board of Governors of the California Community Colleges, Program 20.20.010—Special Services and Operations—Faculty and Administrative Credentials, payable from the Community College Credentials Fund		544,000
Provisions:		
1. Subject to the conditions of Article 4 (commencing with Section 87271) of Chapter 2 of Part 51 of the Education Code, and based on increases in credential applications, Item 6870-001-165 may be increased subject to the approval of the Department of Finance and notification of the Joint Legislative Budget Committee in accordance with the provisions of Section 28.00 of this act.		
6870-001-890—For support of Board of Governors of the California Community Colleges, for transfer to Item 6870-001-001, payable from the Federal Trust Fund		156,000
6870-101-001—For local assistance, Board of Governors of the California Community Colleges		1,228,590,100
Schedule:		
(a) 10-Apportionments	1,151,261,000	
(b) 20.10.010-Community College Extended Opportunity Programs and Services	28,736,800	
(c) 20.10.020-Disabled Students	28,435,300	
(d) 20.10.050-Transfer Centers	1,800,000	
(e) 20.20.020-Partial Financing of the Academic Senate for the Community Colleges	74,000	
(f) 20.30.020-Instructional Improvement, for Transfer to the Community College Fund for Instructional Improvement	783,000	
(g) 20.40.020-Deferred maintenance	7,000,000	
(h) 20.30.030-Vocational Education Special Projects	4,976,000	
(i) Reimbursements	−4,476,000	
(j) 20.10.060-Matriculation	10,000,000	
Provisions:		

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1. The funds appropriated in Schedule (a) are for transfer by the State Controller during the 1985–86 fiscal year to Section B of the State School Fund, in lieu of the amount which otherwise would be appropriated for transfer from the General Fund in the State Treasury to Section B of the State School Fund for the 1985–86 fiscal year pursuant to Section 14020 of the Education Code, as needed, in addition to the sums accruing to Section B of the State School Fund from other sources for the purposes specified in this item for apportionment pursuant to Chapter 4.5 of Part 50 of the Education Code.

2. (a) Notwithstanding any other provision of law, after sufficient funds have been allocated to comply with the provisions of Article 1 (commencing with Section 84700) of Chapter 5 of Part 50 of the Education Code, an amount not to exceed $75,290,000 of the amount appropriated in Schedule (a) shall be allocated to community college districts by the Chancellor of the California Community Colleges. Of this $75,290,000, the Chancellor may allocate an amount not to exceed $13,790,000 as an augmentation to the provisions of Section 84704 of the Education Code and an amount not to exceed $61,500,000 for purposes of meeting the costs associated with adjusting the absence penalty factor as specified in Section 58003 of Title 5 of the Administrative Code or for allocation to those districts which are most in need of revenue adjustments due to declining average daily attendance.

(b) If allocations are made for the purpose of funding the costs associated with adjusting the absence penalty factor, the Chancellor may adjust the number of funded average daily attendance for any community college district above that level defined in subdivision (c) of Section 84701 of the Education Code. However, no district shall receive these additional funds for the average daily attendance which exceeds that district's 1982–83 level of funded average daily attendance plus any allowable growth in the average daily attendance for the 1985–86 fiscal year funded pursuant to the provisions of Section 84706 of the Education Code.

(c) Unless allocated to districts for purposes of deferring revenue adjustments for declining average daily attendance, amounts allocated pursuant to these provisions shall be considered as part of the district base revenues for the 1986–87 fiscal year. Prior to the allocation of funds in excess of the amount necessary to meet the provisions of Article

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1 (commencing with Section 84700) of Chapter 5 of Part 50 of the Education Code, the Chancellor shall first obtain the approval of the Director of Finance. The Director of Finance shall notify the Joint Legislative Budget Committee of the methods to be used for allocating these funds not less than 30 days prior to the allocation.

3. Of the amount appropriated in Schedule (a), up to $10,980,000 shall be available as necessary upon certification by the Chancellor of the California Community Colleges for the purpose of funding community college related and supplemental instruction pursuant to Section 3074 of the Labor Code as provided in Section 8153 of the Education Code. No community college district shall use funds available under this provision to offer any new apprenticeship training program unless that program has been approved by the Chancellor.
4. Of the amount in Schedule (a), up to $3,900,000 may be allocated by the Chancellor for the funding of employer-based job training programs of the type funded pursuant to Provision 12 of Item 6870-101-001 of the Budget Act of 1982. These programs shall be consistent with the intent of that provision and with the criteria adopted by the Board of Governors for allocating funds under that provision.
5. The funds appropriated in Schedule (b) are for transfer by the State Controller during the 1985–86 fiscal year to Section B of the State School Fund for activities conducted under the provisions of Article 8 (commencing with Section 69640) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code. The Board of Governors shall allocate funds on a priority basis and to local programs on the basis of need for student services and financial aid.
6. Of the amount in Schedule (b), $468,000 is provided for local assistance in support of the Cooperative Agencies Resources for Education program in accordance with the provisions of Chapter 1029, Statutes of 1982.
7. The funds appropriated in Schedule (c) are for transfer by the State Controller during the 1985–86 fiscal year to Section B of the State School Fund, in lieu of the amount which otherwise would be appropriated for transfer from the General Fund in the State Treasury to Section B of the State School Fund for the 1985–86 fiscal year pursuant to Section 14020 of the Education Code, for funding the excess direct instructional cost of providing special facilities, special education materials, educational assistance, mobility assistance, transportation, program accountability, program developmental services for hand-

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icapped students enrolled at community colleges, and for state hospital programs.

8. The funds appropriated in Schedule (d) are to fund up to 20 transfer centers on a pilot project basis in accordance with proposals submitted by districts to the Chancellor's Office.
9. The funds appropriated in Schedule (f) shall be expended only for grants.
10. Of the amount appropriated in Schedule (h), $1,500,000 shall be used for continued funding of the Counselor and Instructor In-Service Training Program initiated in Chapter 1662, Statutes of 1984. A second evaluation plan, containing the same evaluation elements as those specified in that chapter, shall be submitted to the Department of Finance by October 15, 1986.
11. Notwithstanding Section 8152 of the Education Code, each 60-minute hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code shall be reimbursed at the rate of three dollars and fifty-eight cents ($3.58) per hour. For purposes of this provision, each hour of teaching time may include up to 10 minutes for passing time and breaks.
12. Of the funds appropriated in Schedule (a), an amount not to exceed $1,500,000 shall be available for allocation to the Rancho Santiago Community College District, in accordance with provisions of Section 84702 of the Education Code, for additional increases in average daily attendance of up to 1,000 that will occur due to construction of the Orange Canyon Campus project funded in Item 6870-301-146, categories (32), (33), and (34), Budget Act of 1984.
13. The funds appropriated in category (i) are to be allocated for matriculation services in accordance with statutory provisions. If there are no statutory provisions, the funds shall be allocated by the Chancellor in accordance with a plan specified by the Board of Governors. No funds shall be allocated prior to 30-day notification to the Joint Legislative Budget Committee of the allocation plan.
14. Notwithstanding any other provision of law, health services as specified in Section 72246.5 of the Education Code shall refer to the program level and type of each health service provided by the affected community college districts in the 1983–84 fiscal year.

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15. Of the funds appropriated in category (a), $2,810,000 is for direct payment to State Teachers' Retirement System for the purpose of funding the cost of increased service credit retirement benefits in lieu of the amount required pursuant to Section 22720 of the Education Code. On July 1, 1985, the Controller shall transfer $2,810,000 from the amount appropriated in category (a) of this item to category (ee) of Item 9680-101-001 of this act.

6870-101-036—For local assistance, Board of Governors of the California Community Colleges, unscheduled, payable from the Special Account for Capital Outlay 25,000,000

Provisions:

1. Funds appropriated in this item are to be considered as a one-time allocation for the purpose of providing community college districts with funds to make one-time purchases of instructional equipment. These funds are to be allocated by the Chancellor district on a per ADA basis to the districts.

6870-101-146—For local assistance, Board of Governors of the California Community Colleges, unscheduled, payable from the Capital Outlay Fund for Public Higher Education 12,200,000

Provisions:

1. Of the amount appropriated in this item, $5,000,000 is available for deferred maintenance projects and shall be allocated by the Chancellor on a project priority basis.
2. Of the amount appropriated in this item, $7,200,000 is available on a one-time basis for the purpose of providing community college districts with funds to make one-time purchases of instructional equipment. These funds are to be allocated by the Chancellor on a per ADA basis to the districts.

6870-101-814—For local assistance, Board of Governors of the California Community Colleges, for allocation by the State Controller in accordance with the provisions of Government Code Section 8880.5 as enacted by the voters in Proposition 37 at the November, 1984 General Election 35,967,000

Provisions:

1. All funds received pursuant to Proposition 37 that are allocable to community college districts pursuant to Section 8880.5 of the Government Code and that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item.

6870-101-909—For local assistance, Board of Governors of the California Community Colleges Program 20.30.020—Instructional Improvement and Innovation, payable from the Community College Fund for Instructional Improvement 967,000

Item		Amount
Provisions:		
1. Of the amount appropriated by this item, not more than $783,000 shall be allocated for grants and not more than $184,000 shall be allocated for loans.		
6870-111-146—For local assistance, Board of Governors of the California Community Colleges, unscheduled, payable from the Capital Outlay Fund for Public Higher Education		2,000,000
Provisions:		
1. Funds appropriated in this item are to be considered for allocation to those districts without child care facilities. Funds may be used for construction or remodeling to make these facilities available. No funds shall be allocated until the plan for allocation is approved by the Director of Finance and 30-day notification is provided to the Joint Legislative Budget Committee.		
6870-301-146—For Capital Outlay, Board of Governors of the California Community Colleges, to be allocated, by the Board of Governors of the California Community Colleges to community college districts for expenditure by such districts, as set forth in the schedule below, payable from the Capital Outlay Fund for Public Higher Education		33,138,000
Schedule:		
Allan Hancock Community College District		
Allan Hancock College:		
(1) 40.02.101-Working drawings for Humanities Building	62,000	
Coachella Valley Community College District		
Copper Mountain Center:		
(2) 40.10.201-Working drawings, vocational education building	48,000	
Coast Community College District		
Orange Coast College:		
(3) 40.11.301-Working drawings and construction childhood education center	349,000	
Contra Costa Community College District		
Diablo Valley College:		
(4) 40.13.203-Equip food service laboratory addition	19,000	
(5) 40.13.204-Working drawings and construction, computer and math laboratories addition	457,000	

Item		Amount
	Glendale Community College District	
	Glendale College:	
(6)	40.18.101-Working drawings, faculty offices, student services, and classroom building	93,000
	Grossmont Community College District	
	Cuyamaca College:	
(7)	40.19.102-Working drawings, multipurpose office and library building	211,000
	Kern Community College District	
	Cerro Coso College:	
(8)	40.22.203-Working drawings, remodel library, counseling center and student services	50,000
	Lake Tahoe Community College District	
	Lake Tahoe College:	
(9)	40.23.103-Construction, permanent building, Phase I	5,800,000
	Los Angeles Community College District	
	Los Angeles Pierce College:	
(10)	40.76.603-Construct and equip, alterations and additions to auto shop	867,000
	Los Angeles Southwest College	
(10.1)	40.26.060.020-Working drawings, occupational technology building	236,000
(10.2)	40.26.060.040-Working drawings, physical education facilities	426,000
	West Los Angeles College:	
(11)	40.77.103-Equip permanent facilities, Phase 1-B (Airport Campus)	61,000
	Mendocino-Lake Community College District	
	Mendocino College:	
(12)	40.29.103-Equip classroom and administration building	337,000
	Medocino College:	
(13)	40.29.104-Working drawings and construction, vocational technical building	2,376,000

Item	Amount
Mira Costa Community College District	
San Dieguito Center:	
(14) 40.31.201-Construction, offsite development	280,000
(15) 40.31.202-Construction, onsite development, Phase I	1,767,000
(16) 40.31.203-Working drawings, permanent buildings, Phase I	244,000
Palo Verde Community College District	
Palo Verde College:	
(17) 40.37.101-Working drawings and construction, library and learning resource center addition	273,000
Peralta Community College District	
College of Alameda:	
(19) 40.40.102-Energy conservation conversion, Phase II	25,000
(20) 40.40.103-Working drawings, diesel mechanics building	118,000
Feather River College:	
(21) 40.40.203-Energy conservation conversion	143,000
(22) 40.40.204-Working drawings and construction, library and audio-visual addition	576,000
Merritt College:	
(23) 40.40.402-Energy conservation conversion, Phase II	374,000
Redwoods Community College District	
Mendocino Coast Education Center:	
(24) 40.42.301-Working drawings and construction, offsite development	235,000
(25) 40.42.302-Working drawings and construction, permanent building, Phase I	1,186,000
Saddleback Community College District	
Saddleback College, North Campus	
(26) 40.45.101-Working drawings and construction, Building A, cluster II	4,094,000
(27) 40.45.102-Working drawings, Building B, cluster II	118,000

Item	Amount
Saddleback College, South Campus	
(28) 40.45.202-Equip general classroom building	1,102,000
(29) 40.45.203-Working drawings and construction, fire access and loop road extension	1,417,000
San Francisco Community College District	
John Adams Community College Center	
(30) 40.48.201-Working drawings and construction, removal of architectural barriers to the physically handicapped	212,000
Santa Barbara Community College District	
Santa Barbara City College:	
(31) 40.53.102-Working drawings, learning resource center	158,000
Sierra Community College District	
Sierra College:	
(32) 40.58.102-Working drawings and construction, removal of architectural barriers to the physically handicapped	6,000
(33) 40.58.103-Upgrade master utility system—electrical distribution	73,000
Southwestern Community College District	
Southwestern College:	
(34) 40.63.102-Equip automotive building addition	92,000
Ventura County Community College District	
Oxnard College:	
(35) 40.65.202-Equip occupational education building	463,000
Community Colleges Statewide	
(36) 40.72.030-Preliminary planning	200,000
(37) 40.72.040-Minor capital outlay, asbestos removal	1,000,000
Grossmont Community College District	
Cuyamaca College:	
(40) 40.19.010.030 Working drawings, outdoor physical education facilities	93,000

Item		Amount
	Marin Community College District	
	Indian Valley College:	
(41)	40.28.020.030 Construction (reimburse) for outdoor physical education facilities	126,000
	Peralta Community College District	
	Laney College:	
(42)	40.40.030.020 Working drawings, construction and equipment, energy conservation conversion, Phase II	119,000
	Mendocino-Lake Community College District	
	Mendocino College:	
(44)	40.29.010.080 Working drawings and construction, agriculture headhouse	1,100,000
	Peralta Community College District	
	Merritt College:	
(45)	40.40.40.030 Working drawings, conversion of existing space	75,000
	Yosemite Community College District	
	Columbia College:	
(46)	40.70.010.020 Construction, multipurpose instructional facility	4,004,000
	Imperial Valley Community College District	
	Imperial Valley College:	
(48)	40.21.010.010 Construction, nursing education center	2,073,000

Provisions:

1. Notwithstanding the provisions of Section 2.00 of this act, the appropriations made for equipment items only shall be available for expenditure only during the 1985–86 and 1986–87 fiscal years.
2. Each district's required matching share of funding for projects included in this item shall be determined in accordance with provisions of Sections 81838 and 81831(c) of the Education Code, except that "excluded funds" defined in Section 81838(c) shall be interpreted as district funds exclusively and shall also include moneys designated as district matching funds for projects included in prior Budget Acts and moneys designated for one hundred (100) percent district funded projects approved by the Chancellor's Office prior to July 1, 1983 for which no qualification regarding future eligibili-

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ty for state funds was given. This provision shall also apply to category (37) of this schedule.

3. The funds appropriated for projects 7, 8, 17, 22 and 31 shall be available for expenditure only if the library study, which is to be completed February 1985, substantiates the need for these library facilities.
4. Funds appropriated in category (36) shall be available only for those major capital outlay projects for which working drawings funds or working drawings and construction funds are reasonably expected to be included in the 1986–87 Governor's Budget.
5. The funds appropriated in categories (19), (21), and (23) shall not be available for expenditure sooner than 30 days following the Department of Finance's written notification to the Chairperson of the Joint Legislative Budget Committee that these projects have not been accepted for funding from the Energy Grants Federal Schools and Hospital Grants Program.
6. Funds provided in category (15) for onsite development of the San Dieguito Center shall insure full compliance with the permit requirements of the California Coastal Commission.
7. The Chancellor's office shall undertake a statewide study of the need to remove or control asbestos at each community college. In undertaking this study, the Chancellor's office shall use, as a guide, the California State University's "Systemwide Facilities Asbestos Inspection and Risk Assessment Program." Based on the results of this study, the Chancellor's office shall establish criteria for setting priorities for individual projects to remove or control asbestos on a statewide basis and shall develop a statewide priority list of individual projects and associated costs. The Chancellor's office shall submit the study, criteria, and statewide priority list to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the legislative fiscal committees by November 1, 1985.
8. The Board of Governors shall be reimbursed for expenditures made prior to the effective date of this act for preliminary plans for projects included in this schedule, provided those expenditures were made for the purpose for which the funds are appropriated by this act or subsequent acts and all other applicable procedures were followed expending the funds. The advance of funds for projects included in this schedule will result in early completion of the projects contained in this schedule. The Board of Governors shall report on or before November 1 of each year to the Department of Finance and the Joint Legislative Budget Committee all reimbursements claimed under this schedule.

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6870-490—Reappropriation, Board of Governors of the California Community Colleges. Notwithstanding any other provision of law, the unencumbered balance, as of June 30, 1985, of the appropriation made in Schedule (f) of Item 6870-101-001 of the Budget Act of 1984, is hereby reappropriated for deferred maintenance and special repair projects, authorized pursuant to provisions of Section 84660 of the Education Code, and shall be available for encumbrance until June 30, 1986.

6870-491—Reappropriation, Board of Governors of the California Community Colleges. Notwithstanding any other provision of law, the unencumbered balance, as of June 30, 1985, of the appropriation made in Item 6870-301-146 (36) of the Budget Act of 1984 is hereby reappropriated for the purpose provided in the appropriation and shall be available for encumbrance until June 30, 1986.

Provisions:

1. The funds reappropriated under this item shall not be available for expenditures until the Department of Finance notifies the Chairperson of the Joint Legislative Budget Committee, and the chairperson of each legislative fiscal committee, that either an exemption has been granted to the district from the court-imposed injunction or the court-imposed injunction has been lifted or otherwise resolved. Further, the funds reappropriated under this item shall be spent in compliance with the applicable terms and conditions of the exemption or resolution.

7980-001-001—For support of the Student Aid Commission 5,624,000

Schedule:

(a) 100000-Personal Services	3,704,000
(b) 300000-Operating Expenses and Equipment	1,810,000
(c) Management improvement projects.....	110,000

Provisions:

1. Of the funds appropriated by category (b), $75,076 shall be available for expenditure to conduct program reviews of the loan programs at a selected number of institutions which have default rates above 15 percent.
2. The funds appropriated in category (c) shall not be available for expenditure until a plan for their expenditure is submitted by the commission in keeping with the provisions of Section 28 of this act.

7980-001-951—For support of the Student Aid Commission, payable from the State Guaranteed Loan Reserve Fund 15,900,500

Provisions:

1. The funds appropriated in this item are for the following:

(a) State Guaranteed Student Loan Program	76,000

Item		Amount
	(b) State Guaranteed Student Loan Program, for purposes of Chapter 1201, Statutes of 1977 16,019,500	
	(c) Reimbursements ..... —195,000	
	2. Notwithstanding the provisions of Item 9840-001-988, the Director of Finance may authorize deficiencies pursuant to Section 11006 of the Government Code from funds appropriated from the State Guaranteed Loan Reserve Fund pursuant to Section 69766 of the Education Code.	
	3. Of the funds appropriated above for the purpose of subdivisions (b) and (c) of Provision 1, $390,000 shall be available for continued funding of the California Loan Initiation Project for the same participants that initiated the pilot project on July 1, 1984. Prior to expenditure of any funds from this item, the Student Aid Commission shall obtain written concurrence from the project contractor, lenders and schools wherein they agree to submit data in a timely manner to the Student Aid Commission so that a required evaluation of the efficiencies realized by this project may be completed.	
	4. The funds appropriated in subdivision (d) of Provision 1 shall not be available for expenditure until a plan for their expenditure is submitted by the Student Aid Commission, in accordance with the provisions of Section 28.00 of this act.	
7980-011-951—To the Student Aid Commission, Program 50, for purchase of defaulted student loans, payable from the State Guaranteed Loan Reserve Fund		146,879,000
	Provisions:	
	1. Notwithstanding the provisions of Item 9840-001-988 the Director of Finance may authorize the creation of deficiencies pursuant to Section 11006 of the Government Code, for the purposes of this item.	
	2. No authorization may become effective sooner than 10 days after notification in writing to the Joint Legislative Budget Committee.	
7980-011-890—To the Student Aid Commission, Program 50, for transfer to the State Guaranteed Loan Reserve Fund, payable from the Federal Trust Fund		134,737,000
	Provisions:	
	1. Any federal funds received by the Student Aid Commission in excess of the amount set forth in this item shall be transferred to the State Guaranteed Loan Reserve Fund in a manner prescribed by the Department of Finance.	
7980-101-001—For local assistance, Student Aid Commission		104,857,000
	Schedule:	
	(a) Scholarships (Cal Grant (a)) 75,271,000	

Item		Amount
(b)	College Opportunity Grants (Cal Grant (b))	30,743,000
(c)	Occupational Education and Training Grants (Cal Grant (c))	3,139,000
(d)	Fellowships for Graduate Study	2,819,000
(e)	Dependents of Deceased or Disabled Peace Officers Grants	14,000
(f)	Bilingual Teacher Grants	3,044,000
(g)	California Student Opportunity and Access Program	497,000
(h)	California Teacher Shortage Loan Assumption Program	1,000,000
(i)	Amount payable from the Federal Trust Fund (Item 7980-101-890)	−11,670,000

Provisions:

1. Funds appropriated in categories (a) through (c) are for awards in the Cal Grant Program under provisions of Article 3 (commencing with Section 69530), of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, Student Aid Commission.
2. The funds appropriated in categories (d) through (f) are for grant awards and graduate fellowship awards under provisions of Article 2 (commencing with Section 52150) of Chapter 7 of Part 28 of the Education Code and under provisions of Article 9 (commencing with Section 69670) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, and under provisions of Article 16 (commencing with Section 69900) of Chapter 2 of Part 42 of the Education Code, and for scholarship awards under provisions of Section 4709 of the Labor Code, Student Aid Commission.
3. The amount appropriated in Schedule (g) is for continued support of six CAL-SOAP contract agreements plus the funding of one pilot project in San Diego.
4. The amount appropriated in Schedule (h) is for the purchase of Teacher Shortage Loan Assumptions pursuant to the provisions of Chapter 498, Statutes of 1983.
5. Notwithstanding any other provision of law, of the amount appropriated in Schedule (a), $1,688,000 is for 1,000 additional new awards for the 1985–86 fiscal year. Of these new awards, 500 shall be granted only to Community College students who transfer to a four-year college or university.
6. Notwithstanding any other provision of law, of the amount appropriated in Schedule (b), $868,000 is for 750 additional new awards for the 1985–86 fiscal year. Of these new awards, 250 shall be granted only to Community College students who transfer to a four-year college or university.

Item		Amount
8100-001-890—For support of the Office of Criminal Justice Planning, for transfer to Item 8100-001-001, payable from the Federal Trust Fund		392,000
8100-011-890—For support of the Office of Criminal Justice Planning, allocation of federal grants, payable from the Federal Trust Fund		1,500,000
8100-101-001—For local assistance, Program 50, Local Project Awards, Office of Criminal Justice Planning		23,046,000
Schedule:		
(a) 50.10-California Career Criminal Prosecution Program, to be allocated pursuant to Chapter 2.3 (commencing with Section 999b) of Title 6 of Part 2 of the Penal Code	4,112,000	
(b) 50.20-California Career Criminal Apprehension Program	2,500,000	
(c) 50.35-Family Violence Program	1,500,000	
(d) 50.40-Sexual Assault Victim Services and Prevention	800,000	
(e) 50.50-California Community Crime Resistance Program, to be allocated pursuant to Chapter 5 (commencing with Section 13840) of Title 6 of Part 4 of the Penal Code	1,153,000	
(f) 50.55-Suppression of Drug Abuse in Schools Program	1,910,000	
(g) 50.60-Major Narcotic Vendors Prosecution Program	713,000	
(h) 50.65-California Gang Violence Suppression Program	1,500,000	
(i) 50.75-Child Sexual Assault Prosecution Program	1,358,000	
(j) 50.90-Runaway and Homeless Youth Program	6,000,000	
(k) 50.95-Courtroom Renovation for minors	800,000	
(*l*) 50.96-Family Violence Prevention Program	200,000	
(m) 50.97-Local Investigation Assistance	500,000	
Provisions:		
1. The amount appropriated in Schedule (a) shall only be awarded to local governmental entities which provide a minimum 10 percent local cash match for the state General Fund amount allocated.		
2. Funds scheduled for the Gang Violence Suppression Program shall be available for expenditure only if the Office of Criminal Justice Planning makes available federal matching dollars so that the total program expenditure is 25 percent federal funds and 75 percent state funds.		

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3. Of the amount appropriated in Schedule (b), $1,250,000 shall be available for expenditure only if legislation is enacted during the 1985–86 Regular Session of the Legislature reauthorizing the Career Criminal Apprehension Program.
4. The amount appropriated in Schedule (c) shall be available for expenditure only if legislation is enacted during the 1985–86 Regular Session of the Legislature authorizing the Family Violence Program.
5. Of the amount appropriated in Schedule (e), $576,500 shall be available for expenditure only if legislation is enacted during the 1985–86 Regular Session of the Legislature reauthorizing the Community Crime Resistance Program.
6. The amount appropriated in Schedule (i) shall be available for expenditure only if legislation is enacted during the 1985–86 Regular Session of the Legislature authorizing the Child Sexual Assault Prosecution Program.
7. The amount appropriated in Schedule (j) shall be for transfer to the Runaway and Homeless Youth Account in the General Fund, contingent upon the enactment of legislation during the 1985–86 Regular Session of the Legislature authorizing the Runaway and Homeless Youth Program.
8. Notwithstanding any other provision of law, up to $500,000 of the funds available in category (m) shall be available for the Office of Criminal Justice Planning to provide reimbursement to the County of Calaveras for the costs associated with the investigation of the slayings in Wilseyville. The funds shall be allocated according to demonstrated need. The amount of the reimbursement shall be determined with the same standards used in making grants to local government in accordance with Item 8180-101-001.

8100-101-241—For local assistance, Office of Criminal Justice Planning, Program 50.80-Prosecutor and Public Defender Legal Training, payable from the Local Public Prosecutors and Public Defenders Training Fund 680,000

Provisions:

1. This item is in lieu of the appropriation made by Penal Code Section 11503.
2. Of the amount appropriated by this item, $340,000 shall be available for expenditure only if legislation is enacted during the 1985–86 Regular Session of the Legislature reauthorizing the Prosecutor and Public Defender Legal Training Program.

8100-101-425—For local assistance, Program 50, Office of Criminal Justice Planning, payable from the Victim/Witness Assistance Fund 10,570,000

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8100-101-483—For local assistance, Office of Criminal Justice Planning, Program 50.90-Runaway and Homeless Youth, payable from the Runaway and Homeless Youth Account, General Fund 6,000,000

Provisions:

1. The funds appropriated by this item shall be available for expenditure only if legislation is enacted during the 1985–86 Regular Session of the Legislature authorizing the Runaway and Homeless Youth Program.
2. Of the funds appropriated by this item, up to $180,000 may be transferred to Item 8100-001-001 for purposes of administering the Runaway and Homeless Youth Program.

8100-101-890—For local assistance, Office of Criminal Justice Planning, payable from the Federal Trust Fund 4,380,000

Schedule:

(a) 50.70-Juvenile Justice and Delinquency Prevention 4,000,000
(b) 50.40.030-Federal Rape Prevention 380,000

8100-490—Reappropriation, Office of Criminal Justice Planning.

Notwithstanding any other provisions of law, on the effective date of this act, the unencumbered balances, or a portion thereof as may be specified in this section, of the appropriations provided in the following citations are reappropriated for the purposes provided for in such appropriations and shall be available for expenditure until June 30, 1986.

001-General Fund:

(1) Chapter 1664, Statutes of 1984, for local assistance, Office of Criminal Justice Planning, not to exceed $350,000.

8120-001-268—For support of Commission on Peace Officer Standards and Training, payable from the Peace Officers' Training Fund..... 6,262,000

Schedule:

(a) 100000-Personal Services 3,499,000
(b) 300000-Operating Expenses and Equipment 4,671,000
(c) Amount payable from the Peace Officers' Training Fund (Item 8120-011-268) ..... −1,908,000

8120-011-268—For support of Commission on Peace Officer Standards and Training, for transfer to Item 8120-011-268, payable from the Peace Officers' Training Fund 1,908,000

Provisions:

1. Funds are to be used for contractual services in support of local training programs, pursuant to Section 13503(c) of the Penal Code.

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2. Funds may be transferred between this item and Item 8120-101-268 in order to meet the needs of local training programs.

8120-101-268—For local assistance, Commission on Peace Officer Standards and Training, Program 30, for allocation to cities, counties and cities and counties, pursuant to Section 13523 of the Penal Code, payable from the Peace Officers' Training Fund.. 35,115,000

Provisions:

1. Funds may be transferred between this item and Item 8120-011-268 in order to meet the needs of local training programs.

8140-001-001—For support of State Public Defender 5,419,000

Schedule:

(a) 10-State Public Defender 5,541,000

(b) Reimbursements ..... −122,000

8140-490—Reappropriation, State Public Defender. On the effective date of this act, notwithstanding any other provisions of law, the unencumbered balances, or a portion thereof as may be specified in this item, of the appropriations provided in the following citations are reappropriated for the purposes provided for in these appropriations. These funds shall be available for expenditure until June 30, 1986.

001—General Fund:

(1) Item 8140-001-001, Budget Act of 1984, for support of State Public Defender, not to exceed $45,000.

8160-111-001—For local assistance, Assistance to Counties for Defense of Indigents, pursuant to Section 987.9 of the Penal Code, for payment by the State Controller 5,775,000

Schedule:

(a) 10-Section 987.6 of the Penal Code, Public Defender Assistance 775,000

(b) 20-Section 987.9 of the Penal Code, Capital Case Defense Preparation 5,000,000

Provisions:

1. Claims for prior years costs may be paid from this item; and provided further, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.

2. Payments made pursuant to this item shall be made in accordance with regulations adopted pursuant to Provision 2 of Item 8160-111-001, of the 1983 Budget Act (Chapter 324 of the Statutes of 1983), concerning compensation of attorneys, investigators, expert witnesses, and other expenses.

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3. The amount appropriated for Public Defender Assistance shall be administered by the Office of Criminal Justice Planning and shall be awarded, under authority of Section 987.6 of the Penal Code, to local public defender offices applying for funds to establish programs offering vertical defense in those areas for which state funding for vertical prosecution is available pursuant to Schedules (a), (g), (h), and (i) of Item 8100-101-001. The Office of Criminal Justice Planning shall establish standards for administration of this funding. The Office of Criminal Justice Planning may not expend more than 7 percent of the amount appropriated for Public Defender Assistance for administration of this funding.

8180-101-001—For local assistance, Payment to Counties for Costs of Homicide Trials, for payment by the State Controller 1,000,000

Provisions:

1. This item is for payment to counties for cost of homicide trials pursuant to Sections 15201 to 15203, inclusive, of the Government Code, provided, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.
2. The Controller shall reimburse counties for reasonable and necessary expenses incurred pursuant to Section 15202 of the Government Code, except that reimbursements to a county shall not exceed: (a) for attorney services, an hourly rate equal to that county's average hourly cost for public defenders, the hourly rate paid to appointed counsel, or the hourly rate charged state agencies by the Attorney General for attorney services, whichever rate is less; (b) for investigators, an hourly rate equal to that county's average hourly cost for county-employed investigators, or the hourly rate charged state agencies by the Attorney General for investigators, whichever rate is less; (c) for expert witnesses, the hourly rate that the county generally pays for these services.

8190-001-001—For the payment of tort liability claims, settlements, compromises and judgments against the state, its officers, servants and employees of state agencies, departments, boards, bureaus or commissions supported from the General Fund, for expenditure by the Department of Justice, subject to approval of the Department of Finance in its discretion 900,000

Provisions:

1. There is hereby appropriated from each fund, other than the General Fund, an amount sufficient for payment of tort liability claims, settlements, compromises and judgments against the state, its officers, servants and employees of state agencies, departments, boards, bureaus or com-

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missions, arising from activities supported from such fund; provided, that no expenditure from any such appropriation from a fund other than the General Fund for payment of tort liability claims, settlements, compromises and judgments shall be made unless approved by the Department of Finance in its discretion.		
2. Expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.		
8200-001-001—For support of Commission for Economic Development		522,000
Schedule:		
(a) 100000-Personal Services	351,000	
(b) 300000-Operating Expenses and Equipment	174,000	
(c) Reimbursements	−3,000	
8260-001-001—For support of California Arts Council		2,818,000
Schedule:		
(a) 100000-Personal Services	1,857,000	
(b) 300000-Operating Expenses and Equipment	1,024,000	
(c) Amount payable from the Federal Trust Fund (Item 8260-001-890)	−63,000	
Provisions:		
1. The council shall establish an assistant to the council for planning and evaluation. In addition, of the amount appropriated in this item, $125,000 shall be used for outside evaluation of council programs and long-range planning.		
8260-001-890—For support of the California Arts Council, for transfer to Item 8260-001-001, payable from the Federal Trust Fund		63,000
8260-101-001—For local assistance, California Arts Council for grants and subventions		12,856,000
Provisions:		
1. Funds appropriated for the local organization development, and support to prominent organizations program elements, shall not be expended unless the grant recipient provides a dollar-for-dollar cash match; provided that for grants to individual artists, no matching funds shall be required.		
2. Of the amount appropriated in this item, the council shall allocate $25,000 to the Los Angeles Film Exposition (Filmex) for the purpose of providing funding for a Hispanic film series.		
3. Of the amount appropriated in this item, $100,000 shall be used to develop a minority technical assistance network.		
4. Of the amount appropriated in this item, $500,000 shall be used for the Independent Artists portion of the Artists in Residence and Independent Artists program.		
8260-101-890—For local assistance, California Arts Council, payable from the Federal Trust Fund		848,000

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Provisions:		
1. Any organization applying for a grant under the support to prominent organizations element of the organizational grants program may not receive a grant under the artistic and administrative development element of the organizational grants program.		
2. Any organization applying for a grant under the artistic and administrative development element of the organizational grants program may not receive a grant under the support to prominent organizations element of the organizational grants program.		
3. Funds appropriated for the artistic and administrative development and support to prominent organizations program elements shall not be expended unless the grant recipient provides a dollar-for-dollar cash match; provided, that for grants to individual artists no matching funds shall be required.		
8280-001-001—For support of Native American Heritage Commission		264,000
Schedule:		
(a) 100000-Personal Services	186,000	
(b) 300000-Operating Expenses and Equipment	108,000	
(c) Reimbursements	−30,000	
8300-001-001—For support of Agricultural Labor Relations Board		9,180,000
Schedule:		
(a) 10-Board Administration	3,788,000	
(b) 20-General Counsel Administration	4,192,000	
(c) 30.01-Administrative Services	778,000	
(d) 30.02-Distributed Administrative Services	−778,000	
(e) 40-Compliance Workload	1,200,000	
Provisions:		
1. Thirty days prior to granting any request for the release of confidential materials related to farmworker complaints or litigation, the General Counsel or the Agricultural Labor Relations Board, whichever party is the recipient of the request, shall notify the Joint Legislative Budget Committee of (1) the nature of the request, (2) the requesting party, and (3) the nature of the material.		
2. The five-member board shall prepare a report which evaluates the feasibility of contracting out to an external source all or portions of the work required in compliance cases. The report shall include a plan for pursuing compliance which details both the internal and external resource to be used by the agency for compliance workload. The report shall be due to the fiscal com-		

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mittees and to the Joint Legislative Budget Committee no later than September 1, 1985.		
3. No funds shall be encumbered by the five-member board from those provided in Schedule (e) until such time as the five-member board has submitted the report specified in Provision (1) to the fiscal committees and the Joint Legislative Budget Committee. Any funds encumbered from Schedule (e) shall be committed in accordance with the compliance plan by January 1, 1986.		
8320-001-001—For support of Public Employment Relations Board		5,521,000
Schedule:		
(a) 10-Dispute Resolution	4,423,000	
(b) 20-Representation	1,098,000	
(c) 30.01-Administration	1,151,000	
(d) 30.02-Distributed Administration	−1,151,000	
8350-001-001—For support of Department of Industrial Relations		94,673,000
Schedule:		
(a) 10-Regulation of Workers' Compensation Self-Insurance Plans	1,458,000	
(b) 20-Conciliation of Employer-Employee Disputes	1,694,000	
(c) 30-Preventing, Settling, Adjudicating and Administrating Disputes under Workers' Compensation Laws	43,578,000	
(d) 40-The Prevention of Industrial Injuries and Deaths of California Workers	39,104,000	
(e) 50-Enforcement and Promulgation of Laws Relating to Wages, Hours, and Conditions of Employment, and Licensing and Adjudication	20,317,000	
(f) 60-Promotion, Development and Administration of Apprenticeship and other on-the-job training	4,846,000	
(g) 70-Labor Force Research and Data Dissemination	2,877,000	
(h) 80.20.001-Payment of claims, wages, and contingencies for transfer to the Uninsured Employers Fund	6,216,000	
(i) 80.20.002-Employees' Account Uninsured Employers Fund	7,554,000	
(j) 94.01-Administration	12,581,000	
(k) 94.02-Distributed Administration	−11,964,000	
(*l*) Reimbursements	−1,740,000	
(m) Amount payable from the Farm Labor Contractor's Special Account (Item 8350-001-023)	−50,000	

Item Amount

(n) Amount payable from the Industrial Relations Construction Industry Enforcement Fund (Item 8350-001-216) ..... −588,000

(o) Amount payable from the Self-Insurance Plans Fund (Item 8350-001-396) ..... −1,223,000

(p) Amount payable from the Elevator Safety Inspection Account, General Fund (Item 8350-001-452) −2,295,000

(q) Amount payable from the Pressure Vessel Inspection Account, General Fund (Item 8350-001-453) −2,859,000

(r) Amount payable from the Employee's Account, Uninsured Employer's Fund (Item 8350-001-571) −7,116,000

(s) Amount payable from the Asbestos Workers Account, Uninsured Employer's Fund (Item 8350-001-572) −864,000

(t) Amount payable from the Federal Trust Fund (Item 8350-001-890) .. −16,753,000

(u) Amount payable from the Asbestos Abatement Account (Item 8350-011-973) ..... −100,000

Provisions:

1. No funds provided in this item shall be expended for development of the Workers' Compensation Appeals Board (WCAB) on-line casetracking and calendar system prior to 30-days notice to the fiscal committees and to the Joint Legislative Budget Committee (JLBC), or such sooner time as the Chairperson of the JLBC shall designate, of the completion of (a) the Post Implementation Evaluation Report (PIER) for the Rehabilitation Bureau pilot project, and (b) an update of the 1978 Feasibility Study Report for the WCAB on-line system.
2. Of the funds appropriated for support of Schedule (d), $200,000 shall be spent in accordance with the following schedule:
   (a) $100,000 from the General Fund for support of:
      (1) Training and consultation to school districts and contract bidders on all school asbestos abatement projects; and
      (2) Compliance inspections of 10% of school asbestos abatement projects, primarily, but not exclusively, in response to complaints filed by employees or other interested parties.
   (b) $100,000 transferred from Item 8350-001-973 for support of compliance and monitoring inspections by the California Occupational Safety and Health Program of a 10% random sample of school asbestos abatement projects.

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8350-001-023—For support of Department of Industrial Relations, for transfer to Item 8350-001-001, payable from the Farm Labor Contractor's Special Account	50,000
8350-001-216—For support of Department of Industrial Relations, for transfer to Item 8350-001-001, payable from the Industrial Relations Construction Industry Enforcement Fund	588,000
8350-001-396—For support of Department of Industrial Relations, for transfer to Item 8350-001-001, payable from the Self-Insurance Plans Fund	1,223,000
8350-001-452—For support of Department of Industrial Relations, for transfer to Item 8350-001-001, payable from the Elevator Safety Inspection Account, General Fund	2,295,000
8350-001-453—For support of Department of Industrial Relations, for transfer to Item 8350-001-001, payable from the Pressure Vessel Inspection Account, General Fund	2,859,000
8350-001-571—For support of Department of Industrial Relations, for transfer to Item 8350-001-001, payable from the Employee's Account, Uninsured Employer's Fund	7,116,000
8350-001-572—For support of Department of Industrial Relations, for transfer to Item 8350-001-001, payable from the Asbestos Workers Account, Uninsured Employer's Fund	864,000
8350-001-890—For support of Department of Industrial Relations, for transfer to Item 8350-001-001, payable from the Federal Trust Fund	16,753,000
8350-001-973—For support of Industrial Relations, for transfer to Item 8350-001-001, payable from the Asbestos Abatement Fund	100,000
8350-011-001—For support of Department of Industrial Relations	200,000

Provisions:

1. The funds provided in this item shall be used to contract for external consultant services to the Department of Industrial Relations for an evaluation of the department's automated management information systems. The study shall include (a) development of a list of critical goals of the department's operations and assessment of practical measures of success, and (b) an evaluation of the department's strategic plan for automated technology insofar as it relates to both internal and legislative program performance information needs. The evaluation shall concentrate on the Divisions of Industrial Accidents, Labor Standards Enforcement, Administration, and the Cal-OSHA program. This provision shall not prevent the department from:
   (a) Implementing its automated technology plan. If the consultant's evaluation recommends revisions in the department's current strategic plan for implementation of

Item		Amount
the office automation project, the department shall submit a Post Implementation Evaluation Report (PIER) or a revised Feasibility Study Report to the Office of Information Technology, the chairperson of the fiscal committees of each house which consider appropriations and the Chairperson of the Joint Legislative Budget Committee, prior to proceeding with full implementation beyond the pilot project stage;		
(b) Transferring, upon receipt of the consultant's final report, any unencumbered funds from this item to Item 8350-001-001 for the purposes of implementation of departmental automated technology projects.		
2. For the purposes of this item, "automated management information systems" means various computer technology used for interactive and batch processing of workload and program performance statistics, casetracking, and management query and includes, but is not limited to, hardware and software related to data input and output, word processing, electronic spreadsheets, electronic mail, and database management.		
8350-011-572—For support of Department of Industrial Relations, for transfer to Item 8350-501-001, payable from the Employee's Account, Uninsured Employer's Fund		(1,000,000)
8350-301-036—For minor capital outlay (91.10.301), Department of Industrial Relations, payable from the Special Account for Capital Outlay		173,000
8350-301-890—For minor capital outlay (91.10.301), Department of Industrial Relations, payable from the Federal Trust Fund		9,000
8380-001-001—For support of the Department of Personnel Administration		5,015,000
Schedule:		
(a) 100000-Personal Services	6,815,000	
(b) 300000-Operating Expenses and Equipment	1,977,000	
(c) Reparation payments	373,000	
(d) Reimbursements	−3,673,000	
(e) Amount payable from the Deferred Compensation Plan Fund (Item 8380-001-915)	−477,000	
Provisions:		
1. $373,000 of the funds appropriated for category (c) are for reparation of salary losses during 1942–47 by persons dismissed from State Civil Service as a result of Chapter 49, Statutes of California, passed at the First Extra Session of the Fifty-Fourth Legislature, 1941–1942 (SCR 15).		
8380-001-915—For support of the Department of Personnel Administration, for transfer to Item 8380-001-001, payable from the Deferred Compensation Plan Fund		477,000

Item		Amount
8450-001-001—For support of Workers' Compensation Benefit Program, for payment of the additional compensation for subsequent injuries provided for by Sections 4750 through 4755 of the Labor Code		4,135,000
Schedule:		
(a) Payment of Claims	5,169,000	
(b) Support, State Compensation Insurance Fund	263,000	
(c) Pre-Litigation Expenses	150,000	
(d) Support, Department of Industrial Relations	553,000	
(e) Amount payable from Subsequent Injuries Moneys, General Fund (Item 8450-001-016)	−2,000,000	

Provisions:

1. This item shall not be construed as a limitation on expenditures provided by Item 8450-001-016.
2. The amount available from this item shall not be available for expenditure at any time that funds appropriated by Item 8450-001-016 are available for expenditure.
3. At the end of fiscal year 1985–86, any expenditures made from the General Fund against this appropriation item shall be reduced by any amounts remaining available from the funds appropriated by Item 8450-001-016.

8450-001-016—For payment of workers' compensation benefits for subsequent injuries, for transfer to Item 8450-001-001, payable from the account for Subsequent Injuries Moneys, General Fund 2,000,000

8460-101-001—For local assistance, Disaster Service Workers 523,000

Provisions:

1. This item is for furnishing of workers' compensation to disaster service workers and their dependents, in accordance with the provisions of Sections 3201 through 6002 of the Labor Code, including the reimbursing of the State Compensation Insurance Fund for the cost of services as adjusting agent, Governor's Office, Office of Emergency Services. The State Compensation Insurance Fund may draw from the State Treasury out of the appropriation made by this item, without at the time presenting vouchers and itemized statements, any portion of the appropriation contained in this item, to be used as a cash revolving fund. Expenditures made from the revolving fund in payment of claims for workers' compensation and adjusting services are excepted from the operation of Section 925.6 of the Government Code. Reimbursement of the revolving fund for such expenditures shall be made upon presentation to the State Controller of an abstract or statement of such expenditures. Such abstract or statement shall be in such form as the State Controller requires.

Item		Amount
8500-001-152—For support of Board of Chiropractic Examiners, payable from the State Board of Chiropractic Examiners Fund		788,000
Schedule:		
(a) Board of Chiropractic Examiners	791,000	
(b) Reimbursements	−3,000	
8510-001-264—For support of Board of Osteopathic Examiners of the State of California, payable from the Contingency Fund of the Board of Osteopathic Examiners		404,000
Provisions:		
1. No funds appropriated by this item may be used to support the board's legal actions against seating two public members on the board.		
2. The Office of the Auditor General shall audit the Board of Osteopathic Examiners expenditures in 1984–85 fiscal year in order to determine the amount of personnel services and operating expenses devoted to the board's lawsuit against seating public members on the board. The 1984 Budget Act contained language which prohibited the board from spending any funds to support the board's legal actions against seating the public members. The Auditor General's findings shall be submitted to the Legislature by December 15, 1985.		
8530-001-290—For support of Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun, Program 10, payable from the Board of Pilot Commissioners' Special Fund		115,000
8540-001-114—For support of California Auctioneer Commission, payable from the Auctioneer Commission Special Fund		162,000
8550-001-191—For support of California Horse Racing Board, payable from the Fair and Exposition Fund		1,711,000
Schedule:		
(a) 100000-Personal Services	2,239,000	
(b) 300000-Operating Expenses and Equipment	938,036	
(c) Reimbursements	−1,092,000	
(d) Amount payable from the Racetrack Security Account, Special Deposit Fund (Item 8550-001-942)	−374,036	
Provision:		
1. Of the amount appropriated by this item, the unexpended balance, if any, shall revert to the General Fund.		
8550-001-942—For support of the California Horse Racing Board, for transfer to Item 8550-001-191, payable from the Racetrack Security Account, Special Deposit Fund		374,036
8550-011-942—Notwithstanding Section 19641(b)(1) of the Business and Professions Code, there is hereby transferred to the General Fund the unencumbered balance of the Racetrack Security Account, Special Deposit Fund, as of June 30, 1986		(942,000)

Item			Amount
8560-001-466—For support of California Exposition and State Fair, for transfer to Item 8560-011-001, payable from the State Fair Police Special Account ..			3,000
8560-011-001—For support of California Exposition and State Fair, from July 1, 1985, through December 31, 1985, provided that the expenditures from the appropriation made by this item shall not exceed those operating revenues deposited in the General Fund by the California Exposition and State Fair			6,868,000
Schedule:			
(a) 100000-Personal Services		3,250,000	
(b) 300000-Operating Expenses and Equipment		4,708,500	
(c) Reimbursements		−185,000	
(d) Amount payable from the Fair and Exposition Fund		−265,000	
(e) Amount payable from the State Fair Police Special Account (Item 8560-001-466)		−3,000	
(f) Amounts payable from the General Fund (Item 8560-016-001)		−637,500	
Provisions:			
1. The amount appropriated by subdivision (a) of Section 19622 of the Business and Professions Code shall be transferred by the State Controller to this item.			
2. Of the amount appropriated in this item, $21,500 shall be available for expenditure for costs associated with Black Cultural Day events.			
8560-016-001—For support of California Exposition and State Fair, for transfer to Item 8560-011-001, payable from the General Fund			637,500
8560-021-001—For the California Exposition and State Fair, for advance authority for the department to incur obligations for entertainment in an amount not to exceed $300,000 for the 1986 California State Fair, payable from the General Fund, and available for encumbrance only until June 30, 1987			(300,000)
8570-001-001—For support of Department of Food and Agriculture			54,515,000
Schedule:			
(a) 10-Pesticide Regulatory Program		18,359,000	
(b) 20-Plant Pest and Disease Prevention		23,946,000	
(bx) 20.20-Plant and disease prevention, containment, and eradication of plant pests and disease (gypsy moth and boll weevil)		1,245,000	
(c) 25-Animal Pest and Disease Prevention/Inspection Services		12,906,000	
(d) 30-Agricultural Marketing Services		3,966,000	
(e) 40-Food and Agricultural Standards and Inspection Services		2,323,000	
(f) 50-Measurement Standards		2,165,000	

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(g) 60-Financial and Administrative assistance to local fairs	1,130,000
(h) 70.01-Exec. Mgmt and Admin Svcs	7,553,000
(i) 70.02-Distributed Exec. Mgmt and Admin. Svcs.	−7,466,000
(j) 80-Gen. Agriculture Activities and Emergency Funding	2,437,000
(k) 97-Special Allotment—Unemployment Ins. Claims	300,000
(*l*) Reimbursements	−840,000
(m) Amount payable from the Agricultural Fund (Item 8570-001-111)	−9,488,000
(n) Amount payable from the Fair and Exposition Fund (Item 8570-001-191)	−1,039,000
(o) Amount payable from the Agriculture Building Fund (Item 8570-001-601)	−1,202,000
(p) Amount payable from the Federal Trust Fund (Item 8570-001-890)	−1,681,000
(q) Amount payable from the Agricultural Pest Control Research Account (Item 8570-011-112)	−99,000

Provisions:

1. Funds appropriated to Schedule (j) from Item 8570-001-111 are in lieu of the appropriation provided by subdivision (b) of Section 224 of the Food and Agricultural Code for emergency detection, eradication, or research of agricultural plant or animal pests or diseases. The Director of Food and Agriculture may expend the funds with the approval of the Director of Finance. The funds which are so appropriated are not subject to Section 6.50 of this act.
2. Funds scheduled for eradication projects in Schedule (bx), shall be available only upon allocation by the Director of Finance. The Director of Finance shall notify the chairpersons of the fiscal committees and the Joint Legislative Budget Committee whenever these funds are allocated.
3. Of the funds appropriated in category (a), the $600,000 appropriated for the purchase of a new minicomputer for the pesticide regulatory program shall be available only upon submission to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee of both houses which consider appropriations of a feasibility study report which has been approved by the Department of Finance, Office of Information Technology.

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4. Of the funds appropriated in category (b), $2,000,000 is available for eradication of the apple maggot fruit fly, contingent upon the allocation of an additional $600,000 made available through (1) the enactment of legislation, or (2) the approval of a request for the additional amount through Section 28.00 of the 1985 Budget Act.		
8570-001-111—For support of Department of Food and Agriculture, for transfer to Item 8570-001-001, payable from the Agricultural Fund		9,488,000
8570-001-191—For support of Department of Food and Agriculture, for transfer to Item 8570-001-001, payable from the Fair and Exposition Fund		1,039,000
8570-001-601—For support of Department of Food and Agriculture, for transfer to Item 8570-001-001, payable from the Agriculture Building Fund		1,202,000
Provisions:		
1. Funds appropriated by this item are in lieu of the appropriation made by Food and Agriculture Code Section 624.		
8570-001-890—For support of Department of Food and Agriculture, for transfer to Item 8570-001-001, payable from the Federal Trust Fund		1,681,000
8570-011-112—For support of Department of Food and Agriculture, for transfer to Item 8570-001-001, payable from the Agricultural Pest Control Research Account		99,000
8570-101-001—For local assistance, Department of Food and Agriculture		10,942,000
Schedule:		
(a) 10-Pesticide Regulatory Program	2,915,000	
(b) 20-Plant Pest and Disease Prevention	7,586,000	
(c) 50-Measurement Standards	475,000	
(d) 60-Financial and Administrative Assistance to local fairs	1,175,000	
(e) 80-General Agricultural activities and Emergency Funding	383,000	
(f) Payable from the Agricultural Fund (Item 8570-101-111)	−34,000	
(g) Payable from the Fair and Exposition Fund (Item 8570-101-191)	−1,175,000	
(h) Payable from the General Fund (Item 8570-111-001)	−383,000	
8570-101-111—For local assistance, Department of Food and Agriculture, for transfer to Item 8570-101-001, payable from the Agricultural Fund		34,000
8570-101-191—For local assistance, Department of Food and Agriculture, for transfer to Item 8570-101-001, payable from the Fair and Exposition Fund		1,175,000

Item		Amount
Provisions: 1. The funds in this item are appropriated for the contributions, or the cost of benefits in lieu of contributions, payable from the Fairs and Exposition Fund to the Unemployment Fund by all entities conducting fairs, including county, district, combined county and district, and citrus fruit fairs receiving funds pursuant to Division 8 of the Business and Professions Code, as a result of unemployment insurance coverage pursuant to Section 605 of the Unemployment Insurance Code. 2. Funds appropriated in this item may be used to pay unemployment benefits or insurance costs incurred by local fairs during the 1979–80 fiscal year or any fiscal year thereafter.		
8570-111-001—For local assistance, Department of Food and Agriculture, for transfer to Item 8570-101-001		383,000
Provisions: 1. The funds in this item are also available for compensation for services performed for agricultural departments and are to be expended in accordance with the provisions of Sections 2221 to 2224, inclusive, of the Food and Agricultural Code.		
8570-301-036—For Capital Outlay, Department of Food and Agriculture, payable from the Special Account for Capital Outlay		8,539,000
Schedule: (1) 90.30.060-Davis Vet Laboratory—Construction	8,173,000	
(2) 90.50.010-Measurement Standards Facility—purchase option, site suitability study, and environmental impact report	44,000	
(3) 90.90.000-Minor Projects	322,000	
8570-301-601—For Capital Outlay, Department of Food and Agriculture, payable from the Agriculture Building Fund		141,000
Schedule: (1) 90.50.010-Measurement Standards Facility—purchase option, site suitability study, and environmental impact report	41,000	
(2) 90.90.000-Minor Projects	100,000	
8620-001-001—For support of the Fair Political Practices Commission		807,000
Schedule: (a) 10-Fair Political Practices Commission	807,000	
8640-001-001—For support of Political Reform Act of 1974 (Proposition 9), the following sums are hereby appropriated to, and in augmentation of, the following agencies and officers for the administration, investigation and regulation of the political campaigns, officials, and lobbyists		1,858,000

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Schedule:		
(a) 10-Secretary of State (for transfer to Item 0890-001-001)	595,000	
(b) 20-Franchise Tax Board (for transfer to Item 1730-001-001)	998,000	
(c) 30-Attorney General (for transfer to Item 0820-001-001)	280,000	
(d) 40-Fair Political Practices Commission	(3,128,000)	
(e) Reimbursements	−15,000	
8660-001-042—For support of Public Utilities Commission, for transfer to Item 8660-001-412, payable from the State Highway Account, State Transportation Fund		1,317,000
8660-001-046—For support of Public Utilities Commission, for transfer to Item 8660-001-412, payable from the Transportation Planning and Development Account, State Transportation Fund		2,013,000
8660-001-412—For support of Public Utilities Commission, payable from the Transportation Rate Fund		14,749,000
Schedule:		
(a) 100000-Personal Services	39,979,000	
(b) 300000-Operating Expenses and Equipment	16,074,000	
(c) Reimbursements	−2,265,000	
(d) Amount payable from the State Highway Account, State Transportation Fund (Item 8660-001-042)	−1,317,000	
(e) Amount payable from the Transportation Planning and Development Account, State Transportation Fund (Item 8660-001-046)	−2,013,000	
(f) Amount payable from the Public Utilities Commission Transportation Reimbursement Account, General Fund (Item 8660-001-461)	−3,171,000	
(g) Amount payable from the Public Utilities Commission Utilities Reimbursement Account, General Fund (Item 8660-001-462)	−32,242,000	
(h) Amount payable from the Federal Trust Fund (Item 8660-001-890)	−233,000	
(i) Amount payable from the Universal Telephone Service Fund pursuant to Section 44181 of the Revenue and Taxation Code	−63,000	
Provisions:		
1. Of the amount appropriated in Schedule (b), $337,000 budgeted for upgrading the operating capability of the commission's mainframe computer system may be expended no sooner than 30 days after the Department of Finance notifies the chairperson of the committee in each house which considers appropriations and the Chair-		

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person of the Joint Legislative Budget Committee of its approval of a feasibility study report for this project.

2. Of the amount appropriated in Schedule (b), $113,000 shall be available for expenditure to the extent needed by the commission only for the purpose of leasing private office space in San Francisco between February 1986 and May 1986.
3. Of the amount appropriated in this item, $352,000 shall be used exclusively for funding 7.3 additional positions to augment the staff currently assigned to the workload involving rapid transit safety, provided that the commission shall, as a first priority, assign an appropriate level of personnel to the task of developing safety planning criteria, safety standards, and safety procedures which must be met by transit operators in the design, construction, and operation of rail rapid transit systems.
4. The commission shall not spend more than $2,400,000 in the 1985–86 fiscal year for the regulation of passenger vehicle operators. In addition, the Auditor General is requested to report to the Legislature by November 1, 1985, and examine the program elements in the regulation of passenger vehicle operators, including the following factors: (1) the cost effectiveness and efficiency of the existing regulatory program in light of statutory requirements; and (2) the necessity for continuing state regulations in this field in light of existing federal regulation of passenger vehicle operators.
5. Of the amount appropriated in this item, $630,000 budgeted for monitoring utility computer models may be expended no sooner than 30 days after the Department of Finance notifies the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee of each house which considers appropriations of its approval of funding for this

8660-001-461—For support of Public Utilities Commission, for transfer to Item 8660-001-412, payable from the Public Utilities Commission Transportation Reimbursement Account, General Fund 3,171,000

8660-001-462—For support of Public Utilities Commission, for transfer to Item 8660-001-412, payable from the Public Utilities Commission Utilities Reimbursement Account, General Fund 32,242,000

8660-001-890—For support of Public Utilities Commission, for transfer to Item 8660-001-412, payable from the Federal Trust Fund 233,000

8700-001-001—For support of State Board of Control .. 639,000

Schedule:

(a) 11-Citizens Indemnification	6,232,000
(b) 21-Hazardous Substance Claims ..	49,000
(c) 31-Civil Claims Against the State	726,000
(d) 51.01-Administration	265,000

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(e) 51.02-Distributed Administration..	−265,000	
(f) Reimbursements	−136,000	
(g) Amount payable from the Restitution Fund (Item 8700-001-214)	−6,232,000	

Provisions:
1. The Board of Control shall not routinely notify all local agencies and school districts regarding its proceedings. However, for each of its meetings the board shall notify all parties whose claims or proposals are scheduled for consideration and any party requesting notice of such proceedings.

8700-001-214—For support of State Board of Control, for support services pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code, for transfer to Item 8700-001-001, payable from the Restitution Fund 6,232,000

Provisions:
1. The Board of Control shall report to the Joint Legislative Budget Committee within 30 days after the end of each quarter of the fiscal year during which the Victims of Violent Crimes claims backlog increases.

8730-001-001—For support of Commission on State Finance 609,000

8735-001-001—For support of California Tax Reform Study Commission 300,000

8780-001-001—For support of Commission on California State Government Organization and Economy 573,000

Schedule:

(a) Support	576,000	
(b) Reimbursements	−3,000	

8800-001-001—To the State Controller for support of memberships 490,000

Schedule:

(a) Council of State Governments.....	196,000	
(b) National Conference of State Legislatures.....	272,000	
(c) Western States Legislative Forestry Task Force	22,000	

Provisions:
1. Of the amount appropriated in Schedule (b), $34,000 may be used to meet prior year costs. Expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.

8820-001-001—For support of Commission on the Status of Women 480,000

Schedule:

(a) 100000-Personal Services	307,000	
(b) 300000-Operating Expenses and Equipment	173,000	

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8820-490—Reappropriation, Commission on the Status of Women. On the effective date of this act, notwithstanding any other provisions of law, an amount not to exceed $53,000 of the appropriation provided in Chapter 1596 of the Statutes of 1984 is reappropriated for completion of an implementation plan for the Displaced Homemaker Emergency Loan Program and shall be available for expenditure until June 30, 1986.

8830-001-001—For support of California Law Revision Commission 526,000

Provisions:

1. The commission shall not limit its scheduled meetings to Sacramento. On a periodic basis, meetings shall be held at other locations in the state, as determined by the commission.

8840-001-001—For support of California Commission on Uniform State Laws 95,000

8860-001-001—For support of Department of Finance 22,901,000

Schedule:

(a) 10-Annual Financial Plan	8,179,000
(b) 20-Program and Information System Assessments	5,924,000
(c) 30-Supportive Data	9,212,000
(d) 40.01-Administration	3,112,000
(e) 40.02-Distributed Administration	−3,248,000
(f) Reimbursements	−278,000
(g) Capital Outlay Cost Estimating	652,000
(h) Amount payable from the Architecture Revolving Fund (Item 8860-001-602)	−652,000

Provisions:

1. The funds appropriated for CFIS/CALSTARS (Programs 30.11 and 30.12) shall be transferred by the State Controller, upon order of the Department of Finance, or made available by the Department of Finance as a reimbursement, to other items and departments for CFIS/CALSTARS related activities by the Department of Finance.
2. The funds appropriated in this act for purposes of CALSTARS related data processing costs may be transferred between any items in this act by the State Controller upon order of the Director of Finance. Any funds so transferred shall be used only for support of CALSTARS related data processing costs incurred.
3. The funds appropriated in Programs 30.11 and 30.12 shall be used for support of activities provided for in Chapter 1284 of the Statutes of 1978.

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4. No electronic data processing projects may be given sole source approval any sooner than 30 days after written notification of intention to grant sole source approval is provided to the fiscal committees and the Joint Legislative Budget Committee (JLBC) or any sooner than whatever lesser time the Chairperson of the JLBC shall determine.
5. The Office of Information Technology (office) shall not have organizational responsibilities for the development or management of information technology programs, including the California Fiscal Information System (CFIS), within the Department of Finance (department). In addition, the office shall not be responsible for approving any data-processing systems within the department. The department shall not implement any change in systems which would have otherwise required approval by the office sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee or whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee may determine.
6. Of the funds appropriated in this item, $150,000 may be expended to secure private sector consulting services relating to telecommunications no sooner than 30 days after notification to the fiscal committees and the Joint Legislative Budget Committee (JLBC), or whatever lesser time the Chairperson of the JLBC shall determine. Any funds remaining subsequent to the contract award shall revert to the General Fund.
7. The funds in category (g) shall be used to establish a Capital Outlay Control Unit in the Department of Finance. None of these funds shall be used for staff of the Office of the State Architect.
8. The Capital Outlay Control Unit, in consultation with the Office of the State Architect, shall determine which projects the Office of the State Architect will design using in-house professional staff. The selected projects shall be determined based on (1) the State Architect's selection of the projects he or she determines the office can accomplish within the time frames established for the ensuing fiscal year and (2) maintaining the level of professional staff assigned to basic and nonbasic architectural and engineering services as specified under Item 1760-001-602 of this act.
9. The Capital Outlay Control Unit shall negotiate a fee for services with the Office of State Architect for each project assigned to that office. The unit shall enter into an interagency agreement with the office which sets forth the project schedule, and the fees for each phase of the

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project. The unit shall make progress payments to the office based on a set percentage completion of each phase of each project. Prior to any payment to the office, the Department of Finance shall review and concur in the percentage of project completion used as the basis for payment. The interagency agreement and payment schedule for each project shall be similar to contracts entered into with private architectural/engineering consulting firms.		
10. The Capital Outlay Control Unit shall be responsible for contracting with private sector firms to undertake work on the capital outlay projects assigned to the Department of General Services. After establishing the projects to be undertaken by the Office of the State Architect, the unit shall immediately begin the process for selecting private Architectural/Engineering consulting firms to undertake the remaining projects.		
11. The Director of the Department of Finance shall, by March 1, 1986, report to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee in each house which considers appropriations, on the status of each project under the Capital Outlay Control Unit. The report shall include, for each project, the project status compared to the original schedule, interagency/contractual fees and any cost savings or overruns.		
12. The office of the Legislative Analyst shall provide to the chairperson and vice chairperson of the fiscal committee of each house which considers appropriations a copy of all written questions asked by that office concerning state capital outlay projects.		
8860-001-602—For support of Department of Finance, for transfer to Item 8860-001-001, payable from the Architecture Revolving Fund		652,000
8885-001-001—For support of Commission on State Mandates		561,000
8885-101-001—For local assistance, Commission on State Mandates, for transfer to the State Mandates Claims Fund		5,000,000
8910-001-001—For support of Office of Administrative Law		2,666,000
Schedule:		
(a) 100000-Personal Services	2,181,000	
(b) 300000-Operating Expenses and Equipment	485,000	
Provisions:		
1. The Office of Administrative Law shall provide quarterly reports to the Legislature and the Department of Finance on the status of existing Orders to Show Cause and any new Orders to Show Cause issued during the preceding quarter.		

Item		Amount
2. Of the funds appropriated in category (b) of this item, an amount not to exceed $111,000 shall be used exclusively for the development and operation of an office automation system and shall be expended no sooner than 30 days after the legislative fiscal committees and the Joint Legislative Budget Committee receive a copy of a feasibility study report for the system, as approved by the Department of Finance.		
8940-001-001—For support of Military Department		18,443,000
Schedule:		
(a) 10-Army National Guard	22,509,000	
(b) 20-Air National Guard	5,933,000	
(c) 30.01-Office of the Adjutant General	4,475,000	
(d) 30.02-Distributed Office of Adjutant General	−4,475,000	
(e) 40-Military Retirement.....	1,813,000	
(ee) 50-California Cadet Corps.....	334,000	
(f) 55-State Military Reserve	240,000	
(g) 60-Farm and Home Loan	72,000	
(h) 71-California Innovative Military Projects and Career Training.....	1,843,000	
(i) Reimbursements.....	−1,710,000	
(j) Amount payable from the AWOL Program Abatement Fund (Item 8940-001-130)	−2,000	
(k) Amount payable from the Federal Trust Fund (Item 8940-001-890) ..	−12,499,000	
(*l*) Amount payable from the General Fund (Item 8940-011-001)	−90,000	
Provisions:		
1. No expenditures shall be made from this appropriation as a substitution for personnel, equipment, facilities, or other assistance, or for any portion thereof, which in the absence of such expenditure, or of this appropriation, would be available to the Adjutant General of the State Military Forces, the California National Guard or the California National Guard Reserve from the federal government.		
2. The appropriation for Program 40 shall be for military retirements, in accordance with the provisions of Sections 228 and 256 of the Military and Veterans Code, Military Department.		
3. Expenditure authority for $1,025,000 in reimbursements from the Employment Development Department as provided in category (i) of this item, shall be offset by reimbursements from local agencies to the extent that the Military Department receives from such agencies' funds to offset costs scheduled in category (h) of this item. Additional reimbursements for category (h) (IMPACT) are exempt from Section 28		

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of this act.

8940-001-130—For support of the Military Department, for transfer to Item 8940-001-001, payable from the AWOL Program Abatement Fund 2,000

Provisions:

1. Provided that funds shall be expended in accordance with the provisions of Chapter 563, Statutes of 1982.

8940-001-890—For support of Military Department, for transfer to Item 8940-001-001, payable from the Federal Trust Fund 12,499,000

8940-011-001—For support of the Military Department, for transfer to Item 8940-001-001 90,000

Provisions:

1. No expenditures shall be made from this appropriation until sufficient revenues or income from armories have been deposited into the State Treasury to the credit of the General Fund pursuant to the Military and Veterans Code Section 431(c).

8940-301-036—For Capital Outlay, Military Department, payable from the Special Account for Capital Outlay 1,193,000

Schedule:

(1) 70.10.010-Statewide—Project planning, working drawings and supervision of construction financed from federal funds	286,000
(2) 70.20.011-Fresno—Off-Street Improvements—Working drawings and construction	182,000
(3) 70.21.010-Fairfield—Armory Building—Preliminary plans and working drawings	97,000
(4) 70.23.010-San Jose—Armory Building—acquisition	69,000
(5) 70.24.010-Sacramento—Storm drains—working drawings and construction	301,000
(6) 70.90.010-Minor projects	258,000

Provisions:

1. The funds provided in categories 2, 3, and 4 of this item are a loan, to be repaid to the Special Account for Capital Outlay from the proceeds received by the Armory Fund from the disposal of unused armories after the requirements of Provision 1, Item 8940-301-036, Chapter 258, Statutes of 1984, have been met. The repayment shall include interest at a rate to be established in accordance with Section 16314 of the Government Code. The Armory Fund is hereby appropriated to the extent necessary to repay this loan and interest.
2. The Department of General Services shall not sell, or arrange for the sale of, the San Jose Armory for an amount which is less than fair market value.

Item		Amount
8940-301-890—For Capital Outlay, Military Department, payable from the Federal Trust Fund.....		14,043,000
Schedule:		
(1) 70.21.010-Fairfield—Armory Building—Preliminary plans and working drawings	60,000	
(2) 70.99.010-Other Federal Construction Funds	13,983,000	
9100-101-001—For local assistance, Tax Relief		976,532,000
Schedule:		
(a) 10-Senior Citizens' Property Tax Assistance.....	7,425,000	
(b) 20-Senior Citizens' Property Tax Deferral Program	8,576,000	
(c) 30-Senior Citizen Renters' Tax Assistance	31,429,000	
(d) 50-Homeowners' Property Tax Relief	334,500,000	
(e) 60-Subvention for Open Space	14,100,000	
(f) 80-Renters' Tax Relief.....	455,400,000	
(g) 90-Substandard Housing	102,000	
(h) 95-Alternative Energy Tax Credits	125,000,000	

Provisions:

1. Schedule (a) is for property tax assistance to homeowner claimants in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

   Any unexpended balance in Schedule (a) may be used to make payments to senior citizen renter claimants under Schedule (c).

2. Schedule (b) is for property tax postponement and assistance to claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), Division 2 of the Revenue and Taxation Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.

3. Schedule (c) is for property tax assistance to renter claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

   Any unexpended balance in Schedule (c) may be used to make payments to senior citizen homeowner claimants under Schedule (a).

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4. Schedule (d) is for reimbursement to local taxing authorities for revenue lost by reason of the homeowners' property tax exemption granted pursuant to subdivision (k) of Section 3 of Article XIII of the Constitution, Controller. The appropriation made by this schedule shall be in lieu of the appropriation required pursuant to Section 25 of Article XIII of the Constitution and the appropriation for the same purposes contained in Section 16120 of the Government Code.

5. Schedule (e) is for providing reimbursement to local taxing authorities for revenue lost by reason of the assessment of open-space lands under Sections 423, 423.3, and 423.5 of the Revenue and Taxation Code, and in accordance with the provisions of Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 or 16140 of the Government Code.

6. Schedule (f) is for transfer by the State Controller, as needed, to the Tax Relief and Refund Account, General Fund, for the purpose of providing credits and refunds to renters as required by Section 17053.5 of the Revenue and Taxation Code, Franchise Tax Board.

7. Schedule (g) is for transfer by the State Controller to the Local Agency Code Enforcement and Rehabilitation Fund, for the purpose of providing funds to defray costs incurred in the enforcement of local housing code provisions and to fund housing rehabilitation programs for persons and families of low and moderate income as defined in Section 50093 of the Health and Safety Code, to be allocated to local agencies prorated on the basis of their share of disallowed deductions which resulted from the agencies' proceedings.

   This amount is in lieu of any statutory requirements.

8. Schedule (h) is for transfer by the State Controller, as needed, to the Tax Relief and Refund Account, General Fund, for the purpose of providing credits and refunds to taxpayers as required by Sections 17052.5, 17052.8, 23601.0, and 23601.5 of the Revenue and Taxation Code. Funds not required pursuant to Schedule (h) shall revert to the General Fund if legislation is enacted which restricts the level of Alternative Energy Tax Credits below the level of funding provided by this item.

9620-001-001—For payment of interest, on order of the Director of Finance, for any General Fund loan .. 1

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Provisions:

1. The Director of Finance, the State Controller, and the Treasurer shall satisfy any need of the General Fund for borrowed funds in a manner consistent with the Legislature's objective of obtaining the lowest possible rate of interest on this borrowing. The state fiscal officers shall use external borrowing rather than borrowing from internal state funds whenever it is economically advantageous to the General Fund.
2. In the event that interest expenses related to internal borrowing exceed the amount appropriated in this item, there is hereby appropriated any amounts necessary to pay the interest. Moneys appropriated herein shall not be expended prior to 30 days after the Department of Finance notifies the Joint Legislative Budget Committee of the amount(s) necessary or not sooner than such lesser time as the Chairperson of the Joint Legislative Budget Committee may determine.

9650-001-001—For the state's contribution for the cost of a health benefits plan and dental care premiums, for annuitants and other employees, in accordance with Sections 22825.7, 22828, 22829 and 22952 of the Government Code, or provided for in a memorandum of understanding pursuant to Section 3517.6 of the Government Code, which was agreed to prior to September 1, 1982, and which is not chargeable to any other appropriation 112,521,000

Schedule:

(a) Health benefit premiums 100,238,000
(b) Dental care premiums 12,283,000

9675-101-890—For local assistance, construction, and repair of local streets and roads, payable from the Federal Trust Fund 125,000,000

Provisions:

1. Notwithstanding any other provision of law, the amount appropriated in this item shall have first priority for allocation and is appropriated from the federal escrow funds received by the state pursuant to Section 8(g) of the Outer Continental Shelf Lands Act as amended (43 U.S.C., Sec. 1337(g)), and deposited in the Federal Trust Fund.
2. The amount appropriated in this item shall be allocated to cities and counties for the maintenance, repair, or reconstruction of existing streets and roads.
3. Allocations to local government from this appropriation for road construction and repair shall be matched by local government expenditures on road repair and construction.
4. The amount appropriated in this item shall be subject to future legislation establishing a formula for allocation of funds to local governments.

Item		Amount
9680-101-001—For local assistance, state-mandated local programs, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or of Section 2231 of the Revenue and Taxation Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, State Controller		109,842,000
Schedule:		
(a) 02.50.015.878—Court interpreters	10,000	
(ab) 02.50.074.378—Judicial arbitration	1,765,000	
(b) 02.50.126.278—Victim's statements	567,000	
(ba) 02.50.135.576—Justice court judges	24,000	
(c) 02.50.139.976—Custody of minors	952,000	
(d) 02.56.088.981—Lis pendens	5,000	
(e) 02.50.158.084—Judges' per diem	184,000	
(f) 02.50.164.084—Juror compensation	9,500,000	
(fa) 06.90.103.280—Deaf teletype equipment	21,000	
(fb) 08.20.046.278—Dental examinations	40,000	
(fc) 08.20.095.276—Marijuana records	99,000	
(g) 08.20.101.184—Juvenile court records	21,000	
(h) 08.20.156.284—Firearms	25,000	
(i) 08.90.007.778—Absentee ballots	2,370,000	
(ia) 08.90.045.474—Filing fees	28,000	
(j) 08.90.049.479—Handicapped voter access	15,000	
(ja) 08.90.070.475—Registration by mail	793,000	
(jb) 17.30.023.874—Substandard housing	9,000	
(k) 19.00.139.874—Unused sick leave credit	1,300,000	
(*l*) 19.00.117.078—Increased pension	7,184,000	
(m) 19.00.103.679—Increased pension	1,656,000	
(n) 19.00.079.980—Increased benefit	354,000	
(na) 21.80.094.175—Health care plans	4,000	
(o) 22.40.114.380—Regional housing needs	68,000	
(oa) 37.20.133.076—Local coastal plans	400,000	
(p) 39.40.999.001—Underground storage tanks	11,400,000	
(pa) 41.40.085.476—Health planning	307,000	
(pb) 42.60.045.374—Sudden infant death syndrome	6,000	
(q) 42.60.116.381-Medi-Cal beneficiary death notices	75,000	
(qa) 43.00.049.877—Coroners	45,000	

Item	Amount
(qb) 43.00.064.480—Judicial proceeding	55,000
(qc) 43.00.069.475—Attorney fees	70,000
(qd) 43.00.125.380—MR Representation	63,000
(qe) 43.00.130.480—Conservatorship	58,000
(qf) 44.40.103.678—MDSO Recommitments	80,000
(qg) 44.40.106.177—Short-Doyle	3,602,000
(r) 51.80.010.281—Alternative medical coverage	79,000
(s) 51.80.999.001—Treatment of loans	4,000
(t) 51.80.999.002—Employment related expenses	10,000
(u) 51.80.999.003—EED-ES registration	4,000
(v) 51.80.999.004—Food stamp verification	60,000
(w) 51.80.999.005—AFDC Social Security validation	134,000
(wa) 61.00.028.279—School Crossing Guards	3,000
(xa) 61.00.047.282—Rubella records	539,000
(xb) 61.00.089.477—Pupil basic skills	3,520,000
(xc) 61.00.096.175—Collective bargaining	11,446,000
(xd) 61.00.096.577—Discipline	609,000
(xe) 61.00.117.677—Immunization records	1,240,000
(xf) 61.00.125.375—Disciplinary procedures	1,000
(xg) 61.00.134.780—Scoliosis screening	553,000
(xh) 63.00.008.974—Unused Sick Leave Credit	18,718,000
(y) 63.00.103.679—Benefit increase	23,004,000
(z) 63.00.128.680—Benefit increase	8,092,000
(za) 81.70.135.776—Guardianship/conservatorship	4,300,000
(zb) 81.75.112.377—Victims of crimes	320,000
(zc) 83.50.102.173—Reduced waiting period	6,950,000
(zd) 83.50.102.373—Life pension	600,000
(aa) 83.80.084.578—Filipino employee surveys	2,000
(aaa) 91.00.124.277—Senior property tax deferral	182,000
(bb) 91.00.128.180—Involuntary lien notices	990,000
(cc) Amount payable from the Restitution Fund (Item 9680-101-214)	−320,000
(dd) Reimbursement from Department of Education for payment of STRS unused sick leave credit	−11,543,000

Item		Amount
(ee)	Reimbursement from California Community Colleges for payment of STRS unused sick leave credit	−2,810,000

Provisions:

1. Except as provided in Provisions 3, 4 and 5 below, allocations of funds provided in Schedules (b) through (cc) to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of such costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 2231 of the Revenue and Taxation Code.
2. The funds provided in Schedule (d) are for reimbursement of costs to local governments of providing the copies of notices in eminent domain actions required by Section 1250.150 of the Code of Civil Procedure and the serving of notices in actions concerning real property other than eminent domain actions, as required by Subdivision (b) of Section 409 of the Code of Civil Procedure.
3. Notwithstanding any other provision of law to the contrary, the funds appropriated in Schedules (k), (*l*), (m), and (n) are for transfer to the Public Employees Retirement System for reimbursement of costs incurred pursuant to Chapter 1398, Statutes of 1974, Chapter 1170, Statutes of 1978, Chapter 1036, Statutes of 1979 and Chapter 799, Statutes of 1980.
4. Notwithstanding any other provision of law to the contrary, the funds appropriated in Schedules (r), (s), (t), (u), (v), and (w) are for transfer to the Department of Social Services for reimbursement of costs which relate to activities of the Department of Social Services, of any new program or increased level of service of an existing program mandated by statute or by executive regulation.
5. The funds appropriated in Schedules (y) and (z) are for transfer to the State Teachers' Retirement Fund for the State Teachers' Retirement System for reimbursement of costs incurred pursuant to Chapter 1036, Statutes of 1979 and Chapter 1286, Statutes of 1980.
8. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein, except those as provided in Provision 4. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in

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each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.

10. None of the funds appropriated in Schedule (ja) which are for reimbursement of costs incurred by counties pursuant to Chapter 704, Statutes of 1975, shall be disbursed until the Secretary of State, in consultation with the State Controller, revises, by using comparable cost and workload data, the formula currently used to reimburse counties for their net costs. No funds shall be disbursed to any county which does not have a voter outreach plan on file with the Secretary of State.

13. (a) It is the intent of the Legislature to resolve the funding of employer costs for sick-leave service credit awarded retirants of the State Teachers' Retirement System pursuant to Chapter 89, Statutes of 1974.

Further, it is the intent of the Legislature that the appropriation of funds for sick-leave service credit shall not constitute an admission of liability by the state for payment of mandated costs and that the state shall seek additional legal opinions as to any such liability. In the event of a definitive decision on the liability issue, it is the intent of the Legislature that funding shall cease.

Further, it is the intent of the Legislature that the resolution provide for a transfer of funds to the State Teachers' Retirement Fund to support additional service credit awarded pursuant to Chapter 89, Statutes of 1974. The necessary funds shall be an amount equal to 0.25 percent of the prior year salaries upon which member contributions are based.

(b) Notwithstanding Section 22720 of the Education Code, the State Teachers' Retirement System shall not bill or attempt to collect from any school district, county office of education, or community college district during the 1985–86 fiscal year the costs for increased service credit retirement benefits from the conversion of unused sick leave. Further, the State Teachers' Retirement System shall rescind all current bills to school districts, county offices, and community colleges districts for the costs of such benefit increases in 1983–84 and 1984–85 if legislation permanently enacting the funding of the employee costs for sick leave service credit is chaptered prior to January 1, 1986.

14. It is the intent of the Legislature that the appropriation provided in this item for reimbursement of counties' costs for complying with state mandates shall not be interpreted to invalidate or in any other way affect the provisions of Section 56.9 of Chapter 268, Statutes of 1984.

Item		Amount
	15. The offset against local mandates provided by Section 56.9 of Chapter 268, Statutes of 1984 shall be continued in 1985–86 and 1986–87. This offset shall be applied where cost savings or services reductions occur, but shall not be applied where the savings result from a change in funding formulas made by the state or federal governments, such as in the area of child care.	
9680-101-214—For local assistance, State-Mandated Local Programs, for transfer to Item 9680-101-001, payable from the Restitution Fund, State Controller		155,000
9800-001-001—For augmentation for Employee Compensation		196,550,000
Schedule:		
(a) Unscheduled	185,698,000	
(b) Pay equity adjustments	10,852,000	
Provisions:		
	1. The funds in Schedule (a) appropriated are for compensation increases, increases in benefits related thereto, and other benefits, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, other state agencies, the Assembly Committee on Rules the Senate Committee on Rules, the Joint Rules Committee, the Joint Legislative Audit Committee, and the Joint Legislative Budget Committee, in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to the General Fund, and each officer or employee of either house of the Legislature or joint committee thereof, to receive any such increases provided on or after July 1, 1985, by the Department of Personnel Administration, or the directors of Hastings College of Law, or any committee of the Legislature responsible for establishing salaries for officers and employees of the Legislature, as the case may be.	
	2. Funds appropriated in Schedule (a) for employee compensation increases are to be allocated by executive order of the Department of Finance to the several state offices, in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining in accordance with salary and benefit schedules established by the Department of Personnel Administration in accordance with Section 19826 of the Government Code.	

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3. The funds appropriated in Schedule (c) shall be used solely for pay equity adjustments related to the comparability of the value of the work, in accordance with provisions of Section 19827.2 of the Government Code, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, the Assembly Committee on Rules, the Senate Committee on Rules, the Joint Rules Committee, the Joint Legislative Audit Committee, and the Joint Legislative Budget Committee, in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to the General Fund, and each officer or employee of either house of the Legislature or joint committee thereof, to receive any such pay equity adjustments provided on or after January 1, 1986, by the Department of Personnel Administration, or any committee of the Legislature responsible for establishing salaries for officers and employees of the Legislature, as the case may be. Appropriated funds are to allocated proportionally: (a) to each of the bargaining units representing employees in state civil service based on the number of employees in female-dominated classifications within each of these units, and (b) to the several state offices, departments, boards, bureaus, commissions, and other state agencies for nonrepresented employees based on the number of employees in female-dominated nonrepresented classes of the several state offices, departments, boards, bureaus, commissions, and other state agencies. Distribution of any appropriated funds within each bargaining unit shall be determined by memoranda of understanding between the Department of Personnel Administration and the exclusive representatives representing state civil service employees.

Bargaining over pay equity adjustments made from these funds shall not commence prior to the implementation of regular 1985–86 employee compensation adjustments. Pay equity adjustments shall not be retroactive to any time prior to January 1, 1986.

Funds appropriated for pay equity adjustments related to comparability of the value of the work are to be allocated by executive order of the Department of Finance in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in a manner consistent with Section 19827.2 of the Government Code.

9800-001-494—For augmentation for Employee Compensation payable from other-unallocated special funds 104,526,000

Item		Amount
Schedule:		
(a) Unscheduled		98,187,000
(b) Pay equity adjustments		6,339,000

Provisions:

1. The funds appropriated in Schedule (a) are for compensation increases, increases in benefits related thereto, and other benefits, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to special funds, to receive any such increases provided on or after July 1, 1985, by the Department of Personnel Administration.
2. Funds appropriated in Schedule (a) for employee compensation increases are to be allocated by executive order of the Department of Finance to the several state offices, in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining in accordance with salary and benefit schedules established by the Department of Personnel Administration in accordance with Section 19826 of the Government Code.
3. The funds appropriated in Schedule (c) are to be used solely for pay equity adjustments related to the comparability of the value of the work, in accordance with provisions of Section 19827.2 of the Government Code, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officers or employee in the state service, whose compensation, or portion thereof, is chargeable to special funds, to receive any such pay equity adjustments provided on or after January 1, 1986, by the Department of Personnel Administration. Appropriated funds are to be allocated proportionally: (a) to each of the bargaining units representing employees in state civil service based on the number of employees in female-dominated classifications within each of these units, and (b) to the several state offices, departments, boards, bureaus, commissions, and other state agencies for nonrepresented employees based on the number of employees in female-dominated nonrepresented classes of the several state offices, departments, boards, bureaus, commissions, and other

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state agencies. Distribution of any appropriated funds within each bargaining unit shall be determined by memoranda of understanding between the Department of Personnel Administration and the exclusive representatives representing state civil service employees.

Bargaining over pay equity adjustments made from these funds shall not commence prior to the implementation of regular 1985–86 employee compensation adjustments. Pay equity adjustments shall not be retroactive to any time prior to January 1, 1986.

Funds appropriated for pay equity adjustments related to comparability of the value of work are to be allocated by executive order of the Department of Finance in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in a manner consistent with Section 19827.2 of the Government Code.

9800-001-988—For augmentation for Employee Compensation, payable from other-unallocated nongovernmental cost funds 84,519,000

Schedule:

(a) Unscheduled 79,326,000

(b) Pay equity adjustments 5,193,000

Provisions:

1. The funds appropriated in Schedule (a) are for compensation increases, increases in benefits related thereto, and other benefits, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to nongovernmental cost funds, to receive any such increases provided on or after July 1, 1985, by the Department of Personnel Administration.
2. Funds appropriated in Schedule (a) for employee compensation increases are to be allocated by executive order of the Department of Finance to the several state offices, in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in accordance with salary and benefit schedules established by the Department of Personnel Administration in accordance with Section 19826 of the Government Code.

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3. The funds appropriated in Schedule (c) are to be used solely for pay equity adjustments related to the comparability of the value of the work, in accordance with provisions of Section 19827.2 of the Government Code, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations for support or for other purposes, in such amounts as will make sufficient money available for each state officer or employee in the state service, whose compensation, or portion thereof, is chargeable to nongovernmental cost funds, to receive any such pay equity adjustments provided on or after January 1, 1986, by the Department of Personnel Administration. Appropriated funds are to be allocated proportionally: (a) to each of the bargaining units representing employees in state civil service based on the number of employees in female-dominated classifications within each of these units, and (b) to the several state offices, departments, boards, bureaus, commissions, and other state agencies for nonrepresented employees based on the number of employees in female-dominated nonrepresented classes of the several state offices, departments, boards, bureaus, commissions, and other state agencies. Distribution of any appropriated funds within each bargaining unit shall be determined by memoranda of understanding between the Department of Personnel Administration and the exclusive representatives representing state civil service employees.

Bargaining over pay equity adjustments made from these funds shall not commence prior to the implementation of regular 1985–86 employee compensation adjustments. Pay equity adjustments shall not be retroactive to any time prior to January 1, 1986.

Funds appropriated for pay equity adjustments related to comparability of the value of the work are to be allocated by executive order of the Department of Finance in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining, in a manner consistent with Section 19827.2 of the Government Code.

9810-001-001—For payment of attorney fee claims, settlements, compromises, and judgments against the state, its officers, and officers and employees of state agencies, departments, boards, bureaus or commissions, supported from the General Fund, but only pursuant to the provisions of Code of Civil Procedure Section 1021.5, the "private attorney general" doctrine, or the "substantial benefit" doctrine 200,000

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Provisions:

1. Expenditures from this item shall be made by the Controller, subject to the approval of the Department of Finance, and shall be charged to the fiscal year in which the disbursement is issued.
2. Expenditures from this item shall not exceed a maximum hourly rate of $90.
3. Notwithstanding the maximum hourly rate specified above, no expenditure from this item shall be made in excess of $100,000 for a single action.
4. No payment shall be made by the Controller from this item except in full and final satisfaction of the claim, settlement, compromise, or judgment for attorney fees incurred in connection with a single action.
5. The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committees in each house when funds from this item have been exhausted, or when there are insufficient funds to satisfy a claim completely. This report shall list the known unsatisfied claims, and the amount of each of these claims.

9810-001-494—For payment of attorney fee claims, settlements, compromises, and judgments against the state, its officers, and officers and employees of state agencies, departments, boards, bureaus or commissions, supported from special funds, payable from the appropriate special fund such amounts as may be necessary, but only pursuant to the provisions of Code of Civil Procedure Section 1021.5, the "private attorney general" doctrine, or the "substantial benefit" doctrine 100,000

Provisions:

1. Provisions 1, 2, 3, 4 and 5 for Item 9810-001-001 are also applicable to this item.

9810-001-988—For payment of attorney fee claims, settlements, compromises, and judgments against the state, its officers, and officers and employees of state agencies, departments, boards, bureaus or commissions, supported from nongovernmental cost funds, payable from the appropriate nongovernmental cost fund such amounts as may be necessary, but only pursuant to the provisions of Code of Civil Procedure Section 1021.5, the "private attorney general" doctrine, or the "substantial benefit" doctrine 100,000

Provisions:

1. Provisions 1, 2, 3, 4 and 5 for Item 9810-001-001 are also applicable to this item.

9820-001-001—For Augmentation for Price Increases .. 2,000,000

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Provisions:

1. The appropriation is for allocation by executive order of the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations and to other items of this act, in amounts that will make sufficient money available to fund, during the 1985–86 fiscal year, price increases in excess of budgeted projections resulting from higher postage rates in amounts that the Department of Finance shall determine.
2. No part of this money shall be used for increases in personnel, personal service contracts, to upgrade a program now in existence, or to start any program not now provided for in this Budget.
3. Augmentations for expenditures pursuant to this item shall become effective no sooner than 30 days after notification in writing to the chairperson of the committee of each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or no sooner than a lesser time which the committee, or its designee, may in each instance determine.

9820-001-494—For augmentation for Price Increases, payable from unallocated special funds 2,000,000

Provisions:

1. Provisions 1, 2 and 3 to Item 9820-001-001 are also applicable to this item.

9820-001-988—For Augmentation for Price Increases, payable from unallocated nongovernmental cost funds 1,000,000

Provisions:

1. Provisions 1, 2, and 3, of Item 9820-001-001 are also applicable to this item.

9840-001-001—For reserve for contingencies or emergencies 1,500,000

Provisions:

1. The funds appropriated for reserve for contingencies or emergencies are to be expended only on written authorization of the Department of Finance for contingencies or emergencies.
2. Contingencies within the meaning of these funds are defined as proposed expenditures arising from unexpected conditions or losses for which no appropriation, or insufficient appropriation, has been made by law and which, in the judgment of the Director of Finance, constitute cases of actual necessity. Emergencies within the meaning of this item are hereby defined as proposed expenditures arising from unexpected conditions or losses for which no appropriation, or insufficient appropriation, has been made by law and which in the judgment of the Director of Finance require immediate action to avert undesirable consequences or to preserve

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the public peace, health or safety.

3. Emergency and contingency expenditure authorizations and deficiency expenditure authorizations shall be limited to purposes which have been specifically approved by the Legislature in Budget Acts or other legislation, except that not more than $200,000 of each fund may be expended for purposes for which no such specific prior authorizations exist.
4. Authorizations for expenditures or deficiency expenditures arising from a contingency shall become effective no sooner than 30 days after notification in writing to the Joint Legislative Budget Committee, or no sooner than such lesser time as the committee, or its designee, may in each instance determine.
5. For expenditure authorizations or deficiency expenditure authorizations arising from an emergency, the Director of Finance shall file with the Joint Legislative Budget Committee within 10 days after approval, copies of all executive orders and allotment promises for emergency-related encumbrance or expenditure authorizations stating the reasons for, and the amount of, all such authorizations, except that any emergency augmentation from this item to any program in excess of 10 percent of the amount authorized for expenditure in the 1985–86 fiscal year for such program shall become effective no sooner than 30 days after notification in writing to the Joint Legislative Budget Committee or no sooner than such lesser time as the committee, or its designee, may in each instance determine, except that no such limit shall apply if the Director of Finance states in writing to the Chairman of the Joint Legislative Budget Committee the necessity and urgency for the allocation which, in the judgment of the director, makes prior approval impractical.

9840-001-494—For Reserve for Contingencies or Emergencies, payable from unallocated special funds .. 1,500,000

Provisions:

1. Provisions 1, 2, 3, 4 and 5 for Item 9840-001-001 are also applicable to this item.
2. For the Reserve for Contingencies or Emergencies, payable from special funds, there are hereby appropriated from each such special fund such sums as are necessary to meet contingencies, or emergencies, to be expended only on written authorization of the Director of Finance and that no deficiencies shall be authorized by the Director of Finance in any appropriation of money from special funds made by this act for the 1985–86 fiscal year under the provisions of Section 11006 of the Government Code; provided, that accounts, special accounts, and funds in the General Fund, which are treated as other

Item		Amount
	governmental cost funds for accounting and budgeting purposes in accordance with Section 13303 of the Government Code, shall be considered to be special funds within the meaning of this item.	
9840-001-988—For Reserve for Contingencies or Emergencies, payable from unallocated nongovernmental cost funds		1,500,000
	Provisions: 1. Provisions 1, 2, 3, 4 and 5 for Item 9840-001-001 are also applicable to this item. 2. For reserve for contingencies or emergencies, payable from nongovernmental cost funds, there is hereby appropriated from each such nongovernmental cost fund which is subject to control or limited by this act such sums as are necessary to meet contingencies or emergencies, to be expended only on written authorization of the Director of Finance and, that no deficiencies shall be authorized by the Director of Finance in any appropriation of money from nongovernmental cost funds made by this act for the 1985–86 fiscal year under the provisions of Section 11006 of the Government Code.	
9840-011-001—For Reserves for Contingencies or Emergencies (Loans)		(2,500,000)
	Provisions: 1. This appropriation is for loans that may be made to state agencies which derive their support from the General Fund or from sources other than the General Fund, upon such terms and conditions for repayment as may be prescribed by the Department of Finance and any sum so loaned shall, if ordered by the Department of Finance, be transferred by the State Controller to the fund from which the support of the agency is derived. 2. No loan shall be made which requires repayment from a future legislative appropriation. 3. Authorizations for loans shall become effective no sooner than 30 days after notification in writing to the Joint Legislative Budget Committee, or no sooner than a lesser time which the committee, or its designee, may in each instance determine, except that this limit shall not apply if the Director of Finance states in writing to the Chairman of the Joint Legislative Budget Committee the necessity and urgency for the loan which, in the judgment of the director, makes prior approval impractical. 4. Within 10 days after approval, the Director of Finance shall file with the Joint Legislative Budget Committee copies of all executive orders for loans stating the reasons for, and the amount of, all of these authorizations.	

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9840-490—Reappropriation, Reserve for Contingencies or Emergencies. As of June 30, 1985, the unexpended balances of the appropriations made by Items 9840-001-001, 9840-001-494 and 9840-001-988, Budget Act of 1984, shall revert to the unappropriated surplus of the General Fund, special funds and nongovernmental costs funds, respectively.

As of July 1, 1985, the amounts reverted as of June 30, 1985, for Items 9840-001-001, 9840-001-494 and 9840-001-988, Budget Act of 1984, are reappropriated and shall be available until June 30, 1986, and may be expended on written authorization of the Department of Finance issued on or before said date, for contingencies and emergencies, within the meaning of said items, occurring during the 1984–85 fiscal year.

9860-301-036—For Statewide Capital Outlay (10.10.010) payable from the Special Account for Capital Outlay 500,000

Provisions:

1. These funds are to be allocated by the Department of Finance to state agencies to develop design and cost information for new projects for which funds have not been appropriated previously but are anticipated to be included in the 1986–87 Governor's Budget. The amount appropriated in this item is not to be construed as a commitment by the Legislature as to the amount of capital outlay funds it will appropriate in any future year.

9860-301-146—For Statewide Capital Outlay, payable from the Capital Outlay Fund for Public Higher Education 500,000

Schedule:

(1) 10.10.020-Matching funds for energy grants, Federal Schools and Hospital Grants Program, working drawings and construction 500,000

Provisions:

1. These funds are to be allocated by the Department of Finance to the University of California, the California State University, the California Community Colleges, and the California Maritime Academy based on notification of acceptance of grant funding under the Federal Schools and Hospitals Grants Program.
2. The Department of Finance, 30 days prior to allocation of funds appropriated under this item, shall report the proposed allocation to the Chairman of the Joint Legislative Budget Committee and to the chairperson of the committee in each house which considers appropriations.

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9860-301-723—For increased cost of construction, in accordance with the provisions of Section 16352 of the Government Code, to be allocated by the Department of Finance, to the Department of Corrections for the purpose of augmenting appropriations from the New Prison Construction Fund and the 1984 Prison Construction Fund, payable from the New Prison Construction Fund 6,000,000

Provisions:

1. The funds in this item shall be available for expenditure during the 1985–86, 1986–87, and 1987–88 fiscal years.

9860-321-036—For Statewide Capital Outlay, Underground Storage Tank Compliance, payable from the Special Account for Capital Outlay 4,000,000

Provisions:

1. The funds in this item shall be available to the Department of Finance for purposes related solely to underground storage tank compliance. The Department of Finance may allocate these funds to the Director of the Department of General Services. The Department of Finance shall develop criteria for allocating the funds under this item for state-owned underground storage tanks. The department shall submit these criteria to the Chairperson of the Joint Legislative Budget Committee for review prior to the expenditure of funds from this item. The Department of Finance shall also authorize the establishment of up to seven positions solely for the underground storage tank program. No more than $338,000 of the funds provided in this item may be spent for the authorized positions and overhead cost directly related to these positions. The Department of Finance shall not allocate any funds under this item, except for staff and overhead expenses, sooner than 30 days following notification of the Chairperson of the Joint Legislative Budget Committee and the chairpersons in each house of the Legislature that consider appropriations, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine.

9865-001-494—For payment of architectural and engineering costs of the Office of the State Architect, incurred during the fiscal years 1978–79 through 1983–84, inclusive, which were not charged to projects supported from special fund appropriations, due to the understatement of rates during those years 2,435,000

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Provisions:

1. Amounts to be charged to each special fund shall be determined by the Department of Finance based on the pro rata share each fund contributed to the Architecture Revolving Fund during the period of understatement of rates and shall be allocated by Department of Finance for transfer to the Architecture Revolving Fund.

GENERAL SECTIONS
STATEWIDE

SEC. 3.00. Whenever herein an appropriation is made for support it shall include salaries and all other proper expenses, including repairs and equipment, incurred in connection with the institution, department, board, bureau, commission, officer, employee, or other agency, for which such appropriation is made.

Each item appropriating funds for salaries and wages includes the additional funds necessary to continue the payment of the amount of salaries in effect on June 30, 1985, for the state officers whose salaries are specified by statute.

Whenever herein an appropriation is made for Capital Outlay, it shall include acquisition of land or other real property, major construction, improvements, equipment, designs, working plans, specifications, repairs and equipment necessary in connection with a construction or improvement project.

Whenever herein any item of appropriation contains provisions for acquisition of land or other real property, it shall include all necessary expenses in connection with the acquisition of such property.

Whenever herein an appropriation is made in accordance with a schedule set forth after such appropriation, the expenditures from such item for each category, program, or project included in the schedule shall be limited to the amount specified for such category, program, or project, except as otherwise provided in this act. Each such schedule is a restriction or limitation upon the expenditure of the respective appropriation made by this act, does not itself appropriate any money, and is not itself an item of appropriation.

As used in this act in reference to such schedules "category", "program", or "project" means a class of expenditures such as, but not limited to:

(a) "Personal services" which shall include all expenditures for payment of officers and employees of the state; including salaries and wages, workers' compensation, compensation paid to employees on approved leave of absence on account of sickness, unemployment compensation benefits, insurance premiums for workers' compensation coverage, industrial disability leave and payments, nonindustrial disability benefits and payments, the state's contributions to the Public Employees' Retirement Fund, the Teachers' Retirement Fund, the University of California Retirement Fund to provide for that portion of retirement costs to be provided for Hastings College of Law in Item 6600-001-001 of this Budget Act, the Old Age and Survivors' Insurance Revolving Fund, the Public Employees' Contingency Reserve Fund, and the state's cost of health benefits plans; but do not include compensation of independent contractors rendering personal services to the state under contract;

(b) "Operating expenses and equipment" which shall include all expenditures for purchase of materials, supplies, equipment, services (other than services of state officers and employees), departmental services (services provided by other organizational units within a department, including indirect distributed costs) and all other prop-

er expenses;

(c) "Preliminary plans" are defined as a site plan, architectural floor plans, elevations, outline specifications, and a cost estimate. For each utility, site development, conversion and remodeling project, the drawings shall be sufficiently descriptive to accurately convey the location, scope, cost, and the nature of the improvement being proposed;

(d) "Working drawings" are defined as a complete set of plans and specifications showing and describing all phases of a project, architectural, structural, mechanical, electrical, civil engineering, and landscaping systems to the degree necessary for the purposes of accurate bidding by contractors and for the use of artisans in constructing the project. All necessary professional fees and administrative service costs are included in the preparation of such drawings;

(e) "Construct" or "construction" when used in connection with a capital outlay project shall include all such related things as fixtures, installed equipment, and auxiliary facilities;

(f) "Minor projects" include construction, improvements and equipment projects not specifically set forth in the schedule;

(g) "Programs" include all expenditures, regardless of category, required to carry out the objectives of the named activity.

For the purpose of further interpreting the meaning of the words, terms and phrases, and uniform codes used in such schedules, reference is hereby made to those documents entitled, "State of California Governor's Budget for 1985–86," submitted by the Governor to the Legislature at the 1985 portion of the 1985–86 Regular Session, the uniform accounting system prescribed by the Department of Finance under the provisions of Section 13300 of the Government Code, the Uniform Codes Manual, and the appropriate portions thereof. The State Board of Control shall establish such interpretations as are necessary to carry out the provisions of this section and shall furnish the same to the State Controller and to every state agency to whom appropriations are made under this act.

SEC. 3.50. Whenever herein an appropriation is made for support or other expenses for an institution, department, board, bureau, commission, officer, employee, or other agency, there shall be charged to such appropriation from which salaries and wages are paid: worker's compensation, compensation paid to employees on approved leave of absence on account of sickness, unemployment compensation benefits, industrial disability leave and payments, nonindustrial disability benefits and payments, the state's contribution to the Public Employees' Retirement Fund as provided by Sections 20751 and 20752 of the Government Code, the state's contribution to the Teachers' Retirement Fund as provided by Sections 23000 and 23400 of the Education Code, the state's contribution to the Old Age and Survivors' Insurance Revolving Fund as provided by Sections 20782 and 20783 of the Government Code, the state's contribution to the Public Employees' Contingency Reserve Fund and the state's contribution for the cost of health benefits plans as provided by Sections 22828 and 22829 of the Government Code.

As of the effective date of this act, the state's contributions as provided by Sections 22828 and 22829 of the Government Code for any month shall be charged to the same appropriations used for payment of salaries and wages from which the employee premium contributions for such month are deducted.

The appropriations made by Sections 20751, 20752, 20782, 20783, 22828, and 22829 of the Government Code, by Sections 23000 and 23400 of the Education Code, shall continue to be available for expenditure, and shall be charged for any expenditure which is not chargeable to an appropriation for support or other expenses as pro-

vided in this section. This transfer may be chargeable to such appropriation for a previous fiscal year if there are no funds available from that fiscal year.

The State Controller may transfer to the State Payroll Revolving Fund the contributions required by Sections 20751, 20752, 20782, 20783, 22828, and 22829 of the Government Code, and upon certification by the Board of Administration of the Public Employees' Retirement System in accordance with Sections 20754 and 20784 of the Government Code, may transfer from the State Payroll Revolving Fund to the Public Employees' Retirement Fund and the Old Age and Survivors' Insurance Revolving Fund the amounts of contributions so certified.

SEC. 4.00. Notwithstanding any other provisions of law, the employer's contributions for the 1985–86 fiscal year, which is chargeable to an appropriation made in this act, with respect to each state officer and employee or an annuitant who was in such employment or office, including an academic position with a California State University or College, or is a survivor of such person, or is an annuitant, shall be $85 for basic and related major medical plans with respect to employees or annuitants enrolled for self alone, or $158 for an employee or annuitant so enrolled for self and one family member, or $211 for an employee or annuitant so enrolled for self and two or more family members, or, if less, the amount necessary to pay the cost of such person's enrollment, including the enrollment of such person's family members, in a health benefits plan or plans.

SEC. 4.20. (a) Notwithstanding any other provisions of law, the employer's contributions to the Public Employees' Contingency Reserve Fund, as required by Section 22826 of the Government Code, shall be 0.7 percent of the gross health insurance premiums paid by the employer and employee for administrative expenses and 0.0 percent of the gross health insurance premiums paid by the employer and employee for the reserve portion of the Public Employees' Contingency Reserve Fund. Any amount provided in departmental budgets which is in excess of the contributions required in this subdivision shall be unallotted and reverted by the Director of Finance. The Department of Finance shall report to the Joint Legislative Budget Committee by December 1, 1985, regarding the amounts unallotted and reverted from departmental budgets under the provisions of this subdivision.

(b) The Controller shall revert the unencumbered balance in the Public Employees' Contingency Reserve Fund as of June 30, 1985, to the state and local funds which contributed to the balance. The amounts to be reverted shall be determined by the Department of Finance, in conjunction with the Office of the Legislative Analyst.

SEC. 4.60. Notwithstanding any other provisions of law, the advisory boards and committees of all agencies, departments, and commissions shall hold their meetings in compliance with Section 11123 of the Government Code. Any agency, department, or commission whose advisory board or committee does not comply with Section 11123 of the Government Code shall not receive any funding (including reimbursements) from the state.

SEC. 5.00. No funds appropriated by this act or appropriated under any other statute may be used to pay court-awarded attorney's fees unless payment of such fees is either:

(a) Specifically authorized and set forth in an item or section of this act; or

(b) Expressly authorized by a statutory provision other than Section 1021.5 of the Code of Civil Procedure.

Provided that this section shall not be construed as making an appropriation of funds for the payment of court-awarded attorney's

fees.

SEC. 5.20. No funds appropriated by this act or appropriated under any other statute may be used to pay attorney fees awarded by federal courts except as specifically authorized and set forth in an item or section of this act. This section shall not be construed as making an appropriation of funds for the payment of attorney fees awarded by federal courts.

It is the intention of the Legislature that, with regard to attorney fee claims, settlements, compromises, and judgments in federal courts against the state, its officers, and officers and employees of state agencies, departments, boards, bureaus or commissions, the maximum hourly rate shall be $90 and the maximum amount for a single action shall be $100,000.

SEC. 5.50. The Director of General Services shall, within 30 days of approving any contracts and interagency agreements for consultant or personal services so notify the Chairperson of the Joint Legislative Budget Committee.

SEC. 6.00. None of the funds appropriated for support purposes under Section 2 of this act may be encumbered for any project for the alteration of a state building requiring total expenditures of $10,000 or more unless the Director of Finance determines that the proposed alteration is critical and that it is necessary to proceed using funds appropriated for support purposes. The maximum cost of any such project shall not exceed $200,000, and any approved critical project shall be reported to the Chairperson of the Joint Legislative Budget Committee or his or her designee, not less than 30 days prior to requesting bids for the project. The report shall detail those factors which make the project so critical that it must proceed using support funds.

SEC. 6.50. (a) The Department of Finance may, pursuant to a request by the officer, department, division, bureau, board, commission, or other agency to whom an appropriation is made herein, authorize the augmentation of the amount available for expenditure for a category, program, or project designated in any schedule set forth for such appropriation by transfer from any of the other designated categories, programs, or projects within the same schedule. The Department of Finance shall furnish the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee a report on all authorizations given pursuant to this section during the preceding quarter.

(b) Augmentations of amounts available for expenditure for a category, program, or project designated in any line of any schedule for personal services or operating expenses and equipment set forth for such appropriation by transfer from any of the other designated categories, programs, or projects within the same schedule shall not exceed, during any fiscal year:

(1) 20 percent of the amount so scheduled on that line for those support appropriations made herein which are $2,000,000 or less.

(2) $400,000 of the amount so scheduled on that line for those support appropriations made herein which are more than $2,000,000 but equal to or less than $4,000,000.

(3) 10 percent of the amount so scheduled on that line for those support appropriations made herein which are more than $4,000,000.

(4) The Department of Transportation Highway Program shall be limited to a schedule change of 10 percent.

(c) Any transfer in excess of $100,000, and any transfer, regardless of the amount, for the purpose of funding a task force or advisory council created by executive order of the Governor, may be authorized pursuant to this section not sooner than 30 days after notification

in writing of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

SEC. 7.20. (a) No funds appropriated by this act may be expended for a commercial insurance policy unless the coverage is either required by law or necessary in order to ensure that a particular state governmental function can be performed. The policy may not be purchased without the review and approval of the Department of General Services, and it may not by purchased any sooner than 30 days after the Chairman of the Joint Legislative Budget Committee has been notified regarding the necessity of the insurance policy, or not sooner than whatever lesser time the chairman may in each instance determine.

(b) Notwithstanding any other provision of this act, the Department of Finance shall reduce the appropriations of all state departments by the amounts allotted for the purchase of elective commercial insurance policies, and revert the unallotted amounts to their original funding sources. The Department of Finance shall have the authority to exempt departments from the provisions of this subdivision in cases where the funds appropriated for the purchase of an elective commercial insurance policy have been approved for expenditure under the provisions of subdivision (a).

SEC. 7.50. Whenever an expenditure is authorized from the reserve for contingencies or emergencies, from price increase funds, from employee benefits or special salary adjustments funds, from total equivalent compensation funds, from the salary increase funds, or from a fund pursuant to Section 11006 of the Government Code, in addition to an appropriation made by this act, such authorized expenditures may, for accounting purposes, be deemed to be an augmentation and increase of the appropriation made by this act.

SEC. 8.50. (a) In making appropriations to state agencies which are eligible for federal programs, it is the intent and understanding of the Legislature that applications made by such agencies for federal funds under any such programs shall be for the maximum amount allowable under federal law. Therefore, any amounts received from the federal government are hereby appropriated, from the Federal Trust Fund for expenditure or for transfer to and disbursement from the State Treasury Fund established for the purpose of receiving such federal assistance subject to any provisions of this act which are applicable to the expenditure of such funds, including Section 28.00.

(b) However, if federal funds for block grant programs assumed by the state are reduced by more than 5 percent of the amount appropriated in this act, the Director of Finance shall notify the chairperson of the committee in each house which considers appropriations, and the Chairperson of the Joint Legislative Budget Committee, in writing within 30 days after notification by the federal government that federal funds have been reduced, and shall include a plan of reduced expenditures for the federal block grant programs affected. The plan shall be operational on an interim basis for up to 45 days pending legislative review, after which time the plan shall become permanent.

(c) In addition, the Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the fiscal committees, within 30 days after notification from the federal government, in the event that federal funds for any item receiving federal funds are reduced by more than 5 percent of the amount appropriated in this act. Notification shall include an esti-

mate of (a) the amount of federal funds available or anticipated, (b) state fiscal year 1985–86 expenditures for each program affected by the reduction, and (c) the effect of reduced funding on service levels authorized by this act.

(d) The director of any department who submits a proposal for applications for federal grant funds to the Director of Finance for prior review shall, at the same time this proposal is submitted, send a copy thereof to the chairperson of the committee in each house which considers appropriations and to the Chairperson of the Joint Legislative Budget Committee.

(e) On or before October 1, 1985, the director of any department which received federal grant funds in the 1984–85 fiscal year shall submit to the chairperson of the committee in each house which considers appropriations and to the Chairperson of the Joint Legislative Budget Committee a report listing the amount and source of all federal funds received by that department during the 1984–85 fiscal year.

SEC. 8.51. Each state agency shall, by certification to the State Controller, identify the account within the Federal Trust Fund when charges are made against any appropriation made herein from the Federal Trust Fund.

SEC. 9.00. The Supplemental Report of the Committee of Conference on the Budget Bill, which contains agreed language on statements of intent or requests for studies and which was submitted to the Senate and Assembly concurrently with consideration of the Budget Bill for the 1985–86 fiscal year, reflects the intent of the Legislature in enacting the Budget Act of 1985 and should be interpreted as such by the various agencies of state government affected by the statements contained in the report. The Legislative Analyst shall transmit copies of the report to all agencies to which statements of intent and requests for studies are directed in order that each may be fully informed of the intent of the Legislature.

SEC. 9.20. Notwithstanding Section 15860 of the Government Code, the amount of funds expended for administrative costs associated with any appropriation contained herein for acquisition of property pursuant to the Property Acquisition Law shall be limited to the amount specified for such costs in the Supplemental Report of the Committee on Conference on the 1985 Budget Act. Notwithstanding the foregoing, any amounts needed for administrative costs associated with acquisition through the condemnation authority of the State Public Works Board shall be provided through augmentation of the affected appropriations as authorized by existing law. Amounts for administrative costs may be augmented by no more than 5 percent by the State Public Works Board.

SEC. 9.50. Unless otherwise stated herein, all reappropriations for capital outlay from the General Fund shall be payable from the Special Account for Capital Outlay.

SEC. 11.50. (a) Notwithstanding any other provisions of law, the allocation to the Energy and Resources Fund made pursuant to subdivision (g) of Section 6217 of the Public Resources Code and subdivision (d) of this section shall be six million one hundred sixty-eight thousand dollars ($6,168,000) for the 1985–86 fiscal year. The Director of Finance may allocate funds among the Energy and Resources Fund; the Energy Account, Energy and Resources Fund; and the Resources Account, Energy and Resources Fund.

(b) Notwithstanding any other provisions of law, the allocation to the Capital Outlay Fund for Public Higher Education made pursuant to subdivision (e) of Section 6217 of the Public Resources Code and subdivision (d) of this section shall be one hundred thirty-eight million nine hundred twenty-six thousand dollars ($138,926,000) for the

1985–86 fiscal year.

(c) Notwithstanding any other provision of law, the allocation to the Special Account for Capital Outlay made pursuant to subdivision (h) of Section 6217 of the Public Resources Code and subdivision (d) of this section shall be one hundred eighteen million seven hundred eighteen thousand dollars ($118,718,000) for the 1985–86 fiscal year.

(d) Notwithstanding any other provisions of law, the allocations of revenues, following the allocation made pursuant to subdivision (d) of Section 6217 of the Public Resources Code shall, for the next one hundred fifty million dollars ($150,000,000), be distributed, equally each month among the funds designated in subdivisions (a), (b), and (c) of this section and in subdivision (f) of Section 6217 of the Public Resources Code subject to the dollar limitations contained in subdivisions (a), (b), and (c) of this section and subdivision (f) of Section 6217 of the Public Resources Code. Revenues, moneys and remittances received in excess of the one hundred fifty million dollar ($150,000,000) amount shall be allocated to subdivisions (a) and (b) of this section and subdivision (f) of Section 6217 of the Public Resources Code and subdivision (c) of this section in that order, subject to the dollar limitations contained in subdivisions (a), (b), and (c) of this section and subdivision (f) of Section 6217 of the Public Resources Code, with any remaining amounts deposited in the General Fund.

SEC. 12.00. For the purposes of Article XIII B of the California Constitution, there is hereby established a state "appropriations limit" of twenty-three billion two million dollars ($23,002,000,000) for 1985–86. Any judicial action or proceeding to attack, review, set aside, void or annul the "appropriations limit" for the 1985–86 fiscal year shall be commenced within 45 days of the effective date of this act.

SEC. 12.30. (a) The contingency reserve for economic uncertainties established within the General Fund by Section 12.3 of the Budget Act of 1980 is hereby continued in existence. This reserve represents a reserve fund within the meaning of Section 5 of Article XIII B of the California Constitution. Notwithstanding Sections 16310 and 16314 of the Government Code, the Controller, may transfer as necessary from the contingency reserve for economic uncertainties or from the Special Accounts in the General Fund to the General Fund such amounts as are needed to meet cash needs of the General Fund. The Controller shall return all such moneys so transferred without payment of interest as soon as there are sufficient moneys in the General Fund.

(b) The State Controller shall transfer from the contingency reserve for economic uncertainties to the unappropriated balance of the General Fund an amount necessary to eliminate any General Fund deficit as of June 30, 1985 or as of June 30, 1986. The amount of transfer for each fiscal year shall be determined on the basis of the State of California Preliminary Annual Report—Accrual Basis, for such fiscal year. Any subsequent adjustments shall be determined jointly by the State Controller and the Director of Finance.

(c) There is hereby appropriated from the General Fund for transfer by the Controller upon order of the Director of Finance, to the contingency reserve for economic uncertainties, an amount necessary to bring the balance of the reserve up to one billion forty million one hundred thousand dollars ($1,040,100,000) as of July 1, 1985.

(d) For budgeting and accounting purposes, any appropriations heretofore or hereafter made specifically from the contingency reserve for economic uncertainties by this act or any other act, other than appropriations contained in this section, shall be deemed an appropriation from the General Fund.

(e) There is hereby appropriated from the General Fund, without regard to fiscal years, for transfer by the State Controller to the contingency reserve for economic uncertainties as of June 30, 1986, the lesser of the following amounts:

(1) The unencumbered balance in the General Fund.

(2) The difference between the state's 1985–86 "appropriations subject to limitation" and its "appropriation limit" as defined in Section 8 of Article XIII B of the California Constitution and established in this act, as jointly estimated by the Legislative Analyst's Office and the Department of Finance.

(f) Notwithstanding the provisions of paragraph (d), the appropriations contained in AB 36 and SB 20 of the 1985–86 Regular Session shall be deemed to be appropriations from the Contingency Reserve for Economic Uncertainties in the 1985–86 fiscal year.

SEC. 12.40. It is the intent and commitment of the Legislature that the Reserve for Economic Uncertainties be established at 3.7% of General Fund expenditures for the beginning of the 1985–86 and the 1986–87 fiscal years.

This Budget is faithful to that commitment. Above that, this Budget reflects the use of a recently discovered and unanticipated $874 million in revenues to meet the immediate unmet needs of Californians, especially in health, education, children's services, toxics, and AIDS. The Legislature recognizes that these increased expenditures increase the baseline expenditures for this budget year, and could likewise increase the baseline budget for future years. It is the intent of the Legislature, with respect to this proposed expansion of the base, if the future economy does not sustain these expenditures, to work cooperatively with the administration in enacting future Budgets to retain the 3.7% reserve without a general tax increase, while still meeting the needs of Californians.

It is further the intent of the Legislature that funding for voluntary and court-ordered desegregation claims for the 1983–84 through 1985–86 fiscal years be provided, if and insofar as at all, from the $200 million additional 1985–86 revenues recently identified by the Commission on State Finance.

SEC. 12.50. (a) The contingency reserve for economic uncertainties established within each special fund by Section 12.35 of the Budget Act of 1981 is hereby continued in existence. These reserves represent reserve funds within the meaning of Section 5 of Article XIII B of the California Constitution.

(b) There is hereby appropriated from each reserve account in each special fund, an amount sufficient to fund any appropriation made by this act or other statute from the fund in which the reserve account is established.

(c) There is hereby appropriated on June 30, 1986, the unappropriated balance in each special fund to the reserve account in that special fund.

SEC. 13.00. Notwithstanding any other provisions of law, expenditures under Item 0160-001-001 of this act or any appropriation in augmentation of such item shall be exempt from the provisions of Chapter 7 (commencing with Section 11700) of Part 1 of, Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of, Chapter 3 (commencing with Section 14250) of Part 5 of, and Chapter 6 (commencing with Section 14780) of Part 5.5 of, Division 3 of Title 2 of, the Government Code, Division 2 (commencing with Section 10100) of the Public Contract Code, subdivision (a) of Section 713 of Title 2 of the California Administrative Code and Section 5.50 of this act, and may be expended as set forth in the Governor's Budget, or for such other purposes, including expenditures for such number of positions in various classifications as may be authorized by the Joint

Committee on Rules.

Notwithstanding any other provisions of law, the unencumbered balances as of June 30, 1985, of the appropriations made by Items 0160-001-001 and 0180-001-001 of the Budget Act of 1984 are reappropriated and shall be available for encumbrance until June 30, 1986, for the same programs and purposes for which appropriations for these items have been made by this act.

SEC. 15.00 The sum of fourteen million four hundred ninety-five thousand dollars ($14,495,000) is hereby appropriated from the General Fund for transfer by the State Controller to the Emergency Telephone Number Account in the General Fund on June 30, 1985. For year-end reporting purposes, this transfer will be treated as a 1984–85 fiscal year transaction.

BUSINESS, TRANSPORTATION AND HOUSING

SEC. 16.00 If funds in the Transportation Planning and Development Account, State Transportation Fund, during the 1985–86 fiscal year are less than total 1985–86 appropriations and allocations from the account, the Director of Finance shall unallot sufficient funds to make total allotments from the account equal to the funds in the account. The unallotments shall be made no sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees of the impact of such unallotments on individual projects, programs, and activities authorized in this act or other enacted legislation.

SEC. 17.00. (a) There is hereby appropriated to the Secretary of the Business, Transportation and Housing Agency from the Transportation Planning and Development Account in the State Transportation Fund, 60 percent of the revenues transferred into the Transportation Planning and Development Account in the State Transportation Fund pursuant to paragraph (1) of subdivision (a) of, and subdivision (e) of, Section 7102 of the Revenue and Taxation Code during the 1985–86 fiscal year for allocation in the 1985–86 fiscal year pursuant to subdivision (b).

(b) (1) 70 percent of the appropriation made in subdivision (a) shall be allocated pursuant to Section 99313 of the Public Utilities Code.

(2) 30 percent of the appropriation made in subdivision (a) shall be allocated pursuant to Section 99314 of the Public Utilities Code.

(c) Notwithstanding Sections 99313 and 99314 of the Public Utilities Code, an amount not more than $114,500 of the amount appropriated by this section shall fund the Department of Transportation's expenditures for administration of State Transit Assistance funds and the federal match requirement of transit management assistance program.

RESOURCES

SEC. 18.10. No expenditure from an appropriation made by this act to the Department of Parks and Recreation shall be made to modify, execute, or approve an operating lease, or an operating agreement with any local entity or any nonprofit corporation, unless either of the following has occurred:

(1) The Legislature has reviewed the lease, or agreement as part of the support or capital outlay budget of the Department of Parks and Recreation and expressed approval of the expenditure from an appropriation made by this act through the supplemental language report.

(2) The State Public Works Board has approved the lease, or an agreement not sooner than 20 days after the Director of Finance has provided written notification to the Chairperson of the Joint Legislative Budget Committee, the Chairperson of the Assembly Ways and Means Committee, and the Chairperson of the Senate Finance Committee, and upon a determination by the board that the proposal could not have reasonably been presented to the Legislature through the annual budget process.

The Department of Parks and Recreation shall include with the proposed lease or agreement sufficient documentation to enable the Legislature, or the board, as the case may be, to evaluate fully the estimated operating costs and revenues and all terms upon which the lease or agreement is proposed to be entered into. Specifically, the documentation shall identify (1) any anticipated costs to the state for operation or development under the agreement and the anticipated state share of total operation and development costs and (2) the anticipated annual revenues, net of operation costs, for the unit and the state's share of these revenues.

SEC. 18.30. Notwithstanding any other provisions of law, on the effective date of this act, the unencumbered balance of the Bagley Conservation Fund shall be transferred to the State Park and Recreation Fund.

SEC. 18.40. The Department of Forestry shall not make a staff reduction to offset the 58.2 personnel years of staff restored by the Legislature for fire lookouts sooner than 30 days after notification in writing of the necessity therefor to the Chairpersons of the Joint Legislative Budget Committee and the fiscal committees or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

HEALTH AND WELFARE

SEC. 21.00. The State Controller may only with the recommendation of the Committee established by Chapter 1167, Statutes of 1981 (AB 861) and the approval by the Director of Finance, withhold up to one percent of the funds provided for federal block grants as set forth in Chapter 1343, Statutes of 1982 (AB 3295). This withhold, which encompasses funds provided for preaudits and federally mandated audits of federal block grant funds, will be for the purpose of assuring that acceptable audit plans will be developed and submitted for approval by responsible state departments on a timely basis.

EDUCATION

SEC. 24.00. For the 1985–86 fiscal year, the oil and mineral revenues from federal lands which are deposited in the State School Fund shall be divided between Section A and Section B of the State School Fund, with 85 percent of these revenues to be credited to Section A of the fund exclusively for K-12 district regular apportionments and 15 percent to Section B of the fund exclusively for community college regular apportionments. The amounts accruing to the State School Fund under this section shall be disbursed fully before any General Fund transfers to Section A or Section B of the State School Fund are disbursed for regular apportionments.

SEC. 24.10. Notwithstanding the provisions of Section 1464 of the Penal Code, added by Chapter 530, Statutes of 1980, and Sections 42050 and 42052 (a) of the Vehicle Code, as amended by Chapter 530, Statutes of 1980, and Section 41304 of the Education Code, the Con-

troller shall transfer the unencumbered balance in the Driver Training Penalty Assessment Fund on June 30, 1986, to the General Fund.

SEC. 24.30. (a) Notwithstanding any other provisions of law, the State Allocation Board shall for the purpose of allocating funds available for the 1985–86 fiscal year pursuant to Chapter 24 (commencing with Section 17780) of Part 10, of the Education Code first fully fund claims pursuant to Section 39619 and then shall fund allocations authorized pursuant to Sections 39619.5, 39619.55, and 39619.8 of the Education Code.

(b) If, after apportioning funds pursuant to subdivision (a), there are funds still available pursuant to Chapter 24 (commencing with Section 17780) of Part 10, of the Education Code the State Allocation Board shall apportion the remaining funds in accordance with division (c).

(c) School districts may submit applications to the State Allocation Board for deferred maintenance funding in addition to the amounts specified in Section 39619. In order to be eligible for an additional apportionment, a school district shall meet the following conditions:

(1) Certify that, if an additional apportionment is provided, the district will match the additional apportionment amount with an equal amount of district funds that have not been previously used as a match for state funds for deferred maintenance purposes. Such matching funds shall be deposited to the District Deferred Maintenance Account established pursuant to Section 39618 of the Education Code.

SEC. 24.40. Notwithstanding any other provision of law, the State Allocation Board may each year reserve up to 10 percent of the funds transferred from any source to the State School Deferred Maintenance Fund for apportionments to school districts of any size in instances of extreme hardship. The apportionment shall be in addition to the apportionments made pursuant to Section 39619 of the Education Code.

SEC. 24.50. For the 1985–86 fiscal year, the California State University (CSU) which is to receive allocations from the California State Lottery Act of 1984 pursuant to Section 8880.4 of the Government Code may borrow up to 25 percent of its allocation, based upon estimates in the 1985–86 Governor's Budget, from the Reserve for Economic Uncertainties or whatever fund source is approved by the Governor. Repayments of the amounts borrowed shall be made by reducing CSU's lottery allocation for the following year with interest at the pooled money investment rate. The Governor may evaluate this loan program as of January 1, 1986, and decide whether the state's fiscal condition is such that this program can be continued for the balance of the 1985–86 fiscal year, or whether the program should be modified.

SEC. 24.60. From the funds appropriated in Items 6100-226-001, 6440-001-001, and 6610-001-001, and the funds provided for cost-of-living adjustments in Schedule (a) of Item 6870-101-001 of this act, the local education agencies through the Superintendent of Public Instruction, Regents of the University of California, Trustees of the California State University system, and community college districts through the Chancellor shall report to the Legislature by September 1, 1986, the amount of lottery funds which each entity received and the purposes for which the funds were expended in the 1985–86 fiscal year, including administrative costs and proposed expenditures and purposes for expenditure for the 1986–87 fiscal year.

SEC. 24.70. The Legislature acknowledges and supports the basic premises of human dignity and self-determination, recognizing that fundamental freedoms and democratic principles are the cornerstones of individual rights.

The Legislature condemns in the strongest terms possible the denial of human rights throughout the world, including the official apartheid policies of the Republic of South Africa. These policies, which deny freedom, equality, self-determination, physical security and economic opportunity to black and other nonwhite individuals, are contrary to the fundamental concepts of human rights and liberty cherished in our country and upon which it was founded.

The Legislature recognizes that numerous state-level public entities, including the Regents of the University of California, the Public Employees' Retirement System, the State Teachers' Retirement System, and the State Legislators' Retirement System, now control investments totaling in excess of $10 billion in value in corporations doing business in South Africa, and that these holdings may constitute an effective tool in the effort toward freeing all human beings in South Africa from the burdens of apartheid.

Pursuant to its commitment to human rights and equality, and recognizing the fiduciary responsibilities of the governing boards of the state's retirement systems, the Legislature declares that no later than January 1, 1986, the governing boards of the Public Employees' Retirement System, State Teachers' Retirement System, Legislators' Retirement System, Judges' Retirement System, and University of California Retirement System shall adopt a policy and plan which shall include provisions for the following:

1. Before January 1, 1986, end all new investments in institutions which make new investments or new loans to the Republic of South Africa or any of its political subdivisions.
2. Prior to July 1, 1986, adopt a plan for divestment in firms which provide military supplies used for oppressive purposes or support the apparatus of apartheid control (e.g., passbooks, work permits).
3. Carry out annual review to determine whether to proceed to adopt further policies/steps toward divestment or other practices.
4. Actively encourage and support investment and voting proxies toward active policies within South Africa that will help end apartheid and/or otherwise improve the opportunities and conditions for nonwhite persons in South Africa and other countries which deny basic human rights to their citizens.

SEC. 24.80. (a) The sum of thirty million dollars ($30,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 1985–86 fiscal year, in addition to, and in augmentation of, the appropriation in Item 6100-196-001 and any other appropriations for the purposes of child care and development services, for expenditure for the purposes of Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code for allocation in accordance with the following schedule:

(1) Campus child care and development programs	$3,000,000
(2) Migrant child care and development programs	$3,000,000
(3) Child care and development programs serving the children of teenage parents, including, but not limited to, school age parenting and infant development programs	$3,000,000
(4) Respite child care service	$3,000,000
(5) Alternative payment programs	$2,400,000
(6) State preschool program reimbursement rate increases	$1,200,000

(7) State preschool program transportation	$300,000
(8) Intergenerational child care	$300,000
(9) Parent services projects	$300,000
(10) Child development division study of severely handicapped needs	$45,000
(11) All other child care and development programs	$13,455,000

(b) The sum of thirty million dollars ($30,000,000) is hereby appropriated from the General Fund for expenditure for latchkey programs pursuant to the provisions of SB 303 and contingent upon the enactment of SB 303 into law.

SEC. 25.00. (a) There is hereby appropriated from the General Fund to the Controller five million dollars ($5,000,000) for endowment of the Academy for the Advancement of Public Policy, a nonprofit, nonpartisan, tax-exempt foundation created for the purpose of conducting educational and training programs for state public officials.

(b) The Legislature intends that the public, nonpartisan educational purpose of the institute is best served by a one-time, nonrenewable appropriation.

GENERAL GOVERNMENT

SEC. 26.00. No funds appropriated by this act shall be encumbered for the purpose of funding any increased state costs or local governmental costs, or both such costs, arising from the issuance of an executive order as defined in Section 2209 of the Revenue and Taxation Code or subject to the provisions of Section 6 of Article XIII B of the California Constitution, or of Section 2231 of the Revenue and Taxation Code, unless (a) such funds to be encumbered are appropriated for such purpose, or (b) notification in writing of the necessity of the encumbrance of funds available to the state agency, department, board, bureau, office, or commission is given by the Department of Finance, at least 30 days before such encumbrance is made, to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or such lesser time as the chairperson of the committee, or his or her designee, determines.

SEC. 27.00. (a) Approval by the Department of Finance to the creation of deficiencies pursuant to Section 11006 or approval to expend at rates which, in the opinion of the Director of Finance, will require a deficiency appropriation shall not be made unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and chairperson of the committee in each house which considers appropriations not later than 30 days prior to the effective date of the approval, except for an approval for an emergency expenditure or an approval which is due to caseload increases in Medi-Cal, Aid to Families with Dependent Children (AFDC), and Supplemental Security Income/State Supplementary Program (SSI/SSP). All notification shall include (1) the date a deficiency request was received by the Department of Finance, (2) the reason for the proposed deficiency, and (3) the approved amount.

(b) Approval for any emergency expenditure shall be made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations not later than 10 days after the

effective date of the approval. All notices shall state the reason for and amount of the deficiency.

As used in this section, "emergency expenditure" means a proposed expenditure arising from unexpected conditions or losses for which no appropriation, or insufficient appropriation, has been made by law and which, in the judgment of the Director of Finance, requires immediate action to avert undesirable consequences or to preserve the public peace, health or safety.

(c) The Department of Finance shall report quarterly to the Chairperson of the Joint Legislative Budget Committee and the fiscal committee of each house on the cumulative deficiency requests approved pursuant to subdivisions (a) and (b). The report shall contain the information required in subsections (1), (2), and (3) of subdivision (a). This report shall be filed within 15 days after the close of each fiscal quarter.

(d) The Department of Finance shall provide copies of all requests from agencies to spend at rates which will result in a deficiency appropriation to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations. The department shall submit these copies within 10 days of receipt. The transmittal of this information to the Legislature shall not be construed by the requesting agency as approval of the deficiency request.

SEC. 28.00. (a) The Director of Finance may authorize the augmentation of the amount available for expenditure for any category or program in the schedule set forth for any appropriation in this act or any additional category or program in the amount of any funds which he or she estimates will be received by an officer, department, division, bureau, or other agency during the 1985–86 fiscal year from any other state agency, from any agency of local government or the federal government, from any appropriation made by the Legislature or from any other source which he or she determines has not been taken into consideration in the schedule or is in excess of the amount so taken into consideration.

(b) The Director of Finance may also reduce any category or program whenever he or she determines that funds to be received will be less than the amount taken into consideration in the schedule.

(c) The following augmentations or reductions may not be authorized 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 not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine:

(1) Augmentations or reductions which either are (a) in excess of $100,000 or (b) are in excess of 10% of the amount available for expenditure in the affected category or program.

(2) Any other augmentations which the Director of Finance determines constitute an increase in the level of services above that authorized by this act or other existing law or are for a new program not identified in this act as such.

(3) Any other reductions which the Director of Finance determines constitute a decrease in the level of service below that authorized by this act or other existing law.

(4) Any augmentation, regardless of the amount, for the purpose of funding a task force or advisory council created by executive order of the Governor.

(d) Any personnel action which is dependent on funds subject to the provisions of this section shall not be effective until after the provisions of this section have been complied with. Any authoriza-

tion made pursuant to this section too late for inclusion in the Governor's Budget for the 1986–87 fiscal year shall remain in effect for such period as the director may determine in each instance, but in no event after June 30, 1987.

(e) All authorizations reported or requested under the provisions of this section shall include all of the following:

(1) A description of the proposed expenditure and identification of the statutory authority for the expenditure.

(2) A determination whether the expenditure, if federally funded, is specifically designed to be one-time, a continuing federal obligation, or one that the state is required (or expected) to fund at some future date.

(3) A determination whether the expenditure, if federally funded, supplements or replaces existing state expenditures.

(4) A determination whether the expenditure has previously been considered at some point in the legislative process and has been denied; and, if denied, for what reasons.

(f) All increased expenditures from department indirect cost funds in excess of the amount budgeted in this act or identified in a prior Section 28 notification are subject to the reporting requirements of this section.

SEC. 29.00. The Department of Finance shall calculate and publish a listing of total personnel-years and estimated salary savings for each department and agency. These listings shall be published by the Department of Finance at the same time as the publication of (a) the Governor's Budget, (b) the May revision and (c) the Final Change Book.

(a) The listing provided at the time of the publication of the Governor's Budget shall contain estimates of personnel-years for the prior year, current year, and budget year.

(b) The listing provided at the time of publication of the May revision shall contain estimates of personnel-years proposed for the budget year.

(c) The listing provided at the time of the publication of the Final Change Book shall contain estimates of personnel-years for the budget year just enacted.

SEC. 29.50. The Department of Finance shall provide the Joint Legislative Budget Committee with a specified list of personal services contracts contained in the Governor's Budget. This list shall reflect only those personal services contracts which the Department of Finance determines to be new or innovative.

The list shall include (1) the amount of the proposed contract, (2) the basis for the contract pursuant to Section 19130 of the Government Code, and (3) the number of personnel-years to be eliminated or avoided if a contract is implemented. The contracts shall be listed by agency and department.

The Department of Finance shall also report to the Legislature on a quarterly basis when a department proposes the use of innovative personal services contracting for a new service not previously considered in the Governor's Budget.

SEC. 30.00. Section 13340 of the Government Code is amended to read:

13340. On and after July 1, 1986, no moneys in any fund which, by any statute other than a Budget Act, is continuously appropriated without regard to fiscal years, may be encumbered unless the Legislature, by statute, specifies that the moneys in the fund are appropriated for encumbrance.

SEC. 31.00. The appropriations under this act, unless otherwise provided, shall be subject to the provisions of Section 13320 of the Government Code and Article 2.5 (commencing with Section 13332)

of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code requiring expenditures to be made in accordance with the allotments and other provisions of fiscal year budgets approved by the Department of Finance.

The fiscal year budget shall authorize in such manner as the Department of Finance shall prescribe all established positions whose continuance for the year is approved and all new positions. No new position shall be established unless authorized by the Department of Finance on the basis of work program and organization.

The Director of Finance, or his/her authorized designee, shall notify the Chairperson of the Joint Legislative Budget Committee within 30 days of authorizing any position not authorized for that fiscal year by the Legislature or any reclassification to a position with a minimum step of $2,160 per month. He/she shall also report all transfers to blanket authorizations and the establishment of any permanent positions out of a blanket authorization.

All positions administratively established pursuant to this section during the 1985–86 fiscal year shall terminate on June 30, 1986, except that those positions which have been (a) included in the 1986–87 Governor's Budget as proposed new positions, or (b) approved by the Department of Finance and reported to the Legislature after the 1986–87 Governor's Budget submission to the Legislature, may be reestablished by the Department of Finance during the 1986–87 fiscal year, provided such positions are shown in the 1987–88 proposed Governor's Budget submitted to the Legislature, or in subsequent Department of Finance letters to the Legislature, and provided, such positions do not result in establishment of positions deleted by the Legislature through the 1986–87 budget process.

Each fiscal year budget shall provide for a salary savings reserve to which shall be transferred on a document initiated by the agency the unencumbered balance remaining in each allotment for salaries and wages at the close of each quarter or other period of time covered by the allotment. A copy of this document shall be submitted to the Department of Finance upon request. The unencumbered balance remaining in each budget allotment for salaries and wages shall be computed by deducting from the amount of the allotment the expenditures and accrued obligations for salaries and wages chargeable to such allotment for the period covered thereby. The amount in the salary savings reserve shall not be available for expenditure except upon transfer to allotments for salaries and wages approved by the Department of Finance. Such transfer shall be approved only after it has been demonstrated to the satisfaction of the Department of Finance that the allotment to be augmented is insufficient to meet necessary expenditures for salaries and wages.

No money in any 1985–86 fiscal year appropriation not appropriated for that purpose may be expended for increases in salary ranges or any other salary action (s) unless the Department of Finance certifies to the salary setting authority prior to the adoption of such action (s) that funds are available to pay the increased salary or wage resulting therefrom. Provided, that prior to certification the Department of Finance shall determine whether such increase in salary range or salary action will require supplemental funding in the 1986–87 fiscal year. If the Department of Finance determines that supplemental funding will be required, no certification shall be issued unless notification in writing is given by the Department of Finance, at least 30 days before certification is made, to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee, or such lesser time as the chairman of the committee, or his designee, determines.

A certification on a payroll claim that expenditures therein are in

accordance with current budgetary provisions as approved by the Department of Finance shall be sufficient evidence to the State Controller that such expenditures comply with the provisions of this section.

Each agency, department, board, commission, and institution, for whose benefit and support appropriations are made in this act, shall certify to the Director of Finance that its expenditures have been made for the purposes stated in the budget, as implemented by the Budget Act, except as the purposes stated have been revised, in accordance with law, by the Department of Finance subsequent to the enactment of the Budget Act.

SEC. 32.00. The officers of the various departments, boards, commissions and institutions, for whose benefit and support appropriations are made in this act, are expressly forbidden to make any expenditures in excess of such appropriations, except the consent of the Department of Finance be first obtained, and a certificate, in writing, duly signed by the director of said department, of the unavoidable necessity of such expenditure; and any indebtedness attempted to be created against the state in violation of the provisions of this section shall be absolutely null and void; and shall not be allowed by the State Controller nor paid out of any state appropriation. Any member of any such department, board, commission or institution, who shall vote for any expenditure, or create any indebtedness against the state in excess of the respective appropriations made by this act, except by the consent of the Department of Finance and the certificate in this section provided to be first obtained, shall be liable both personally and on his official bond for the amount of such indebtedness, to be recovered in any court of competent jurisdiction by the person or persons, firm or corporation to whom such indebtedness is owing.

The Department of Finance shall submit copies of certificates approved by it under this section to the Chairman of the Joint Legislative Budget Committee, and the chairman of the committee in each house which considers appropriations, quarterly, and shall indicate in the case of each certificate the code section or section of this act under which the department gave its consent to exceed the particular appropriation.

SEC. 33.00. If any item of appropriation in this act is vetoed, eliminated, or reduced by the Governor under Section 10 of Article IV of the Constitution, while approving portions of this act, such veto, elimination, or reduction shall not affect the other portions of this act, and these other portions of this act, so approved, shall have the same effect in law as if any vetoed or eliminated items of appropriation had not been present in this act, and as if any reduced item of appropriation had not been reduced.

SEC. 33.35. No funds appropriated for the Office of Family Planning shall be granted, directly or indirectly, to any group, clinic, or organization which performs, promotes, or advertises abortions, or which receives any direct or indirect compensation, advantage, benefit, or gain from referrals for abortion services.

SEC. 34.00. If any portion of this act is held unconstitutional, such decision shall not affect the validity of any other portion of this act. The Legislature hereby declares that it would have passed this act, and each portion thereof, irrespective of the fact that any other portion be declared unconstitutional.

SEC. 35.00. This act, inasmuch as it provides for an appropriation for the usual current expenses of the state, shall, under the provisions of Section 8 of Article IV of the Constitution of the State of California, take effect immediately.

SEC. 36.00. This act is an urgency statute necessary for the im-

mediate 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 act makes appropriations and contains related provisions for support of state and local government for the 1985–86 fiscal year and provides for capital outlay appropriations, in continuation of existing programs and to promote and sustain the economy of the state. It is imperative that these appropriations be available for expenditure commencing not later than July 1, 1985. It is therefore necessary that the act go into immediate effect.

INDEX BY BUDGET TITLE

SEC. 99.00. The following provides an index to the appropriations and related provisions of this act, by organization in alphabetical order, with the code number of the affected organization. The organization code is the first four numbers of any item number in this act. For ease of reference, the appropriation items in this act are organized in numerical order, and all of the appropriation items for any one organization are adjacent to one another.

Department	Organization Code
"A"	
Accountancy, Board of	1120
Acupuncture Advisory Committee	1400
Administrative Law, Office of	8910
Aging, Commission on	4180
Aging, Department of	4170
Agricultural Labor Relations Board	8300
Air Resources Board	3400
Alcohol and Drug Programs, Department of	4200
Alcoholic Beverage Control, Department of	2100
Alcoholic Beverage Control Appeals Board	2120
Alternative Energy Source Financing Authority, California	0971
Architectural Examiners, Board of	1130
Arts Council, California	8260
Assembly (See Legislature)	0120
Assistance to Counties for Defense of Indigents	8160
Athletic Commission, State	1140
Attorney Fees, Payment of Court Awarded	9810
Auctioneer Commission, California	8540
Auditor General	0155
Automotive Repair, Bureau of	1150
"B"	
Banking Department, State	2140
Barber Examiners, State Board of	1160
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Block Grants for Superior Court Judgeships, State	0440
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INDEX FOR CONTROL SECTIONS

SEC. 99.50. The following is an index to the general sections of this act. These sections serve to define terms and restrictions on the appropriations contained herein.

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CHAPTER 112

An act to amend Section 97.2 of, and to add Section 97.65 to, the Revenue and Taxation Code, relating to property taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 1985 Filed with Secretary of State June 28, 1985]

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

SECTION 1. This act shall be know and may be cited as the Roos-Johnson-Marks Property Tax Limitation Act of 1985.

SEC. 2. Section 97.2 of the Revenue and Taxation Code is amended to read:

97.2. (a) Where jurisdictions which levy a property tax rate for voter-approved indebtedness, other than bonded indebtedness, no higher than the rate for that indebtedness in the 1982–83 fiscal year, or levy no rate for indebtedness, other than bonded indebtedness, if the amount of property tax revenue allocated to a jurisdiction in any or all of the 1978–79, 1979–80, 1980–81, 1981–82, or 1982–83 fiscal years is found to be incorrect due to the inclusion of property taxes levied for voter-approved indebtedness as property tax revenues pursuant to Section 26912 of the Government Code, and subdivision (c) of Section 95 by some jurisdictions, then, in making the appropriate corrections to each jurisdiction's base-year allocation for those fiscal years, the amount apportioned in the 1983–84 fiscal year and 1984–85 fiscal year shall be based on the base-year amount for the 1982–83 fiscal year, prior to any corrections of the incorrectly included amounts for voter approved indebtedness.

(b) In counties where the allocation of property tax revenue was incorrect for any of, or all of, the fiscal years from 1978–79 to 1982–83, inclusive, due to the inclusion of property taxes levied for voter-approved indebtedness in the calculation of property tax revenues pursuant to Section 26912 of the Government Code or subdivision (c) of Section 95 for any jurisdictions, the amount apportioned in the 1985–86 fiscal year and any fiscal year thereafter shall be based on the base-year amount used in the allocation of property tax revenue for the 1982–83 fiscal year. However, the county auditor shall adjust the base-year amount used in the allocation of property tax revenues for the 1982–83 fiscal year to comply with the requirements of Sections 97.3, 97.7, 97.75, and 97.8,

and Section 1 of Senate Bill No. 692 of the 1985–86 Regular Session of the Legislature, if that bill is chaptered and takes effect.

SEC. 3. Section 97.65 is added to the Revenue and Taxation Code, to read:

97.65. (a) For the 1985–86 fiscal year and each fiscal year thereafter, no jurisdiction shall impose a property tax rate pursuant to subdivision (a) of Section 93, unless it is imposed for one or more of the following purposes:

(1) To make annual payments for the interest and principal on general obligation bonds approved by the voters before July 1, 1978.

(2) To make payments to the State of California under contracts for the sale, delivery, or use of water entered into pursuant to California Water Resources Development Bond Act in Chapter 8 (commencing with Section 12930) of Part 6 of Division 6 of the Water Code or to make payments to the United States or another public agency under voter-approved contracts for the sale, delivery, or use of water or for the repayment of voter-approved obligations for the construction, maintenance, or operation of water conservation, treatment, or distribution facilities, provided that the indebtedness was approved by the voters before July 1, 1978.

(3) To make payments pursuant to lease-purchase programs approved by the voters before July 1, 1978, provided that the jurisdiction imposed the property tax rate in the 1982–83 fiscal year.

(4) To make payments in support of pension programs approved by the voters before July 1, 1978, provided that the local agency imposed the property tax rate in the 1982–83 or 1983–84 fiscal year.

(5) To make payments in support of paramedic, library, or zoo programs approved by the voters before July 1, 1978, provided that the jurisdiction imposed the property tax rate in the 1982–83 fiscal year.

(6) To make payments for the interest and principal on an indebtedness, pursuant to Section 5544.2 of the Public Resources Code, approved by the voters before July 1, 1978, provided that the local agency imposed the property tax rate in the 1982–83 fiscal year.

(b) In the 1985–86 fiscal year and any fiscal year thereafter, a jurisdiction shall not impose a property tax rate, pursuant to subdivision (a) of Section 93, in excess of the rate it imposed in the 1982–83 or 1983–84 fiscal year. Notwithstanding the limit imposed by this subdivision, a higher property tax rate may be imposed whenever necessary to make payments for any of the purposes specified in paragraphs (1), (2), and (3) of subdivision (a) However, no property tax rate increase in excess of the rate imposed in the 1984–85 fiscal year shall be imposed if the purpose of the rate increase is to fund a reduction in the rates charged for water at the time of the property tax rate increase.

(c) Notwithstanding subdivisions (a) and (b), a charter city may levy an ad valorem property tax rate to make payments in support of a retirement system for fire and police employees if all of the following criteria are met:

(1) The retirement system is part of the city's charter and was approved by the voters before July 1, 1978.

(2) The city did not levy a separate ad valorem property tax rate to support the retirement system in the 1983–84 fiscal year.

(3) The retirement system provides for a cost-of-living adjustment which is indexed to a consumer price index and does not limit the annual increases which may be paid to members after their retirement.

(4) The retirement system is not currently available to newly hired fire and police employees and will not be available in the future.

(5) Before January 1, 1985, the city unsuccessfully litigated a limit to the cost-of-living adjustment which may be paid to members of the retirement system after their retirement.

(6) After July 1, 1985, the city conducted an election and a question authorizing the levying of an ad valorem property tax for the purpose of making payments in support of the retirement system received the affirmative votes of at least 60 percent of those voting on that question.

The proceeds of an ad valorem property tax rate levied pursuant to this subdivision shall be used only to pay for the obligations of a retirement system described by this subdivision. The proceeds shall not be used to finance more than 75 percent of the annual obligations of this retirement system. A city shall not levy an ad valorem property tax pursuant to this subdivision after June 30, 2034.

(d) If a jurisdiction imposes a rate in excess of the maximum rate authorized by subdivision (a), (b), or (c), the amount of property tax allocated to the jurisdiction pursuant to this chapter shall be reduced by one dollar ($1) for each one dollar ($1) of property tax revenue attributable to the excess rate. Any property tax revenue which has been subtracted from a jurisdiction's allocation pursuant to this subdivision shall be allocated to elementary, high school, and unified school districts within the jurisdiction's jurisdiction in proportion to the average daily attendance of each district.

(e) This section shall be deemed to be a limit on the maximum property tax rate pursuant to Section 20 of Article XIII of the California Constitution.

SEC. 4. It is the intent of the Legislature in enacting paragraph (5) of subdivision (a) of Section 97.65 of the Revenue and Taxation Code to avoid serious and sudden fiscal dislocations to the cities which have levied extraordinary property tax rates with voter approval to make payments in support of paramedic, library, or zoo programs. In enacting that paragraph, it is not the intent of the Legislature to make any statement regarding the constitutionality of those property tax rates, a matter which is left to the courts. Further, it is not the intent of the Legislature in enacting that paragraph to make any statement regarding the outcome of Patton v. City of Alameda, 161 Cal. App. 3d 1786, a case which is currently before the California Supreme Court.

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 moratorium on extraordinary property tax rates created by Chapter 491 of the Statutes of 1983 ends on June 30, 1985. In order that the allocation of property tax revenues for the 1985–86 fiscal year may be made in accordance with this act, it is necessary for this act to take effect immediately.

CHAPTER 113

An act to amend Sections 25174, 25174.8, and 25174.9 of, to amend, repeal, and add Section 25174.6 of, and to add Sections 25174.02 and 25178.1 to, the Health and Safety Code, relating to hazardous waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 1985 Filed with Secretary of State June 28, 1985]

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

SECTION 1. Section 25174 of the Health and Safety Code is amended to read:

25174. (a) Each person who disposes of hazardous wastes onsite, or who submits the hazardous waste for disposal offsite, shall pay a fee directly to the State Board of Equalization for disposal of those wastes, except that if the waste was produced outside the state, but is disposed of within the state, the disposal site operator shall collect the fees from the person submitting the hazardous waste and shall transmit these fees to the State Board of Equalization.

The director shall establish a schedule of the fees to be paid to the State Board of Equalization for disposal of hazardous waste, which shall provide revenues which shall not exceed the amount necessary, but shall be sufficient, to cover all costs incurred in the administration of this chapter or related provisions regulating hazardous wastes, and to provide a 5 percent operating reserve. The fee schedule shall include a base rate calculated pursuant to Section 25174.02 for determining the relative fees for hazardous waste which is not extremely hazardous waste and for that hazardous waste which is extremely hazardous waste. The fees shall be deposited by the State Board of Equalization in the Hazardous Waste Control Account in the General Fund. The funds deposited in that account are continuously appropriated for expenditure without regard to fiscal years for the following purposes:

(1) To the State Board of Equalization to pay refunds of fees collected pursuant to Section 43051 of the Revenue and Taxation Code.

(2) To the department to carry out the provisions of this chapter.

(b) This section shall become operative on July 1, 1985.

SEC. 2. Section 25174.02 is added to the Health and Safety Code, to read:

25174.02. (a) The State Board of Equalization shall set the base rate for the hazardous wastes specified in Section 25174.6, for the

period from July 1, 1985, to June 30, 1986, inclusive, in accordance with the following formula:

$$\text{Base rate} = \frac{(B\text{-}M) + .05\ B}{(T_1 + T_2 + T_7)\ 25 + (T_3 + T_4)\ 2\ 00 + (T_5)\ 05 + T_6 + (T_8)\ 10}$$

Where all of the following apply:

(1) "B" is the amount appropriated in the Budget Act of 1985 for the hazardous waste control account including, but not limited to, any amounts appropriated for the compensation of employees.

(2) "M" is any unobligated funds remaining in the fund from previous fiscal years.

(3) "T_1" is the total amount in tons of waste specified in paragraph (1) of subdivision (a) of Section 25174.6.

(4) "T_2" is the total amount in tons of waste specified in paragraph (2) of subdivision (a) of Section 25174.6.

(5) "T_3" is the total amount in tons of waste specified in paragraph (3) of subdivision (a) of Section 25174.6.

(6) "T_4" is the total amount in tons of waste specified in paragraph (4) of subdivision (a) of Section 25174.6.

(7) "T_5" is the total amount in tons of waste specified in paragraph (5) of subdivision (a) of Section 25174.6.

(8) "T_6" is the total amount in tons of waste specified in paragraph (6) of subdivision (a) of Section 25174.6.

(9) "T_7" is the total amount in tons of waste specified in paragraph (7) of subdivision (a) of Section 25174.6.

(10) "T_8" is the total amount in tons of waste specified in subdivision (c) of Section 25174.6.

(b) The base rate specified in subdivision (a) shall apply to persons subject to the fee specified in Section 25174 for all hazardous waste which they dispose of onsite, or submit for disposal offsite, on and after July 1, 1985. Upon the enactment of the Budget Act of 1985, the State Board of Equalization shall determine the base rate, in accordance with the formula specified in subdivision (a), to reflect any necessary adjustments to cover the costs specified in Section 25174, using the adjusted tonnage estimates supplied by the department for the period between July 1, 1985, and June 30, 1986. The department shall supply these estimates to the State Board of Equalization before July 1, 1985, so as to give the Board of Equalization sufficient time to determine the base rate. Within 30 days after the enactment of the Budget Act of 1985, the State Board of Equalization shall send a notice of the adjusted fee rate to every person subject to the fee specified in Section 25174.

SEC. 3. Section 25174.6 of the Health and Safety Code is amended to read:

25174.6. (a) Except as otherwise provided in Section 25174.9, the fee provided pursuant to Section 25174 to be paid, until June 30, 1985, by the operators of onsite and offsite hazardous waste

facilities for each ton, or fraction thereof, of hazardous waste which the operator disposes of on land or applies to land, shall be at the following rates:

(1) Two dollars and forty-eight cents ($2.48) for each ton, or fraction thereof, for up to the first 3,500 tons of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, except as provided in subdivision (f), which is not subject to Subchapter III (commencing with Section 6921) of Chapter 82 of Title 42 of the United States Code, pursuant to subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4), or hazardous waste for which the Administrator of the Environmental Protection Agency has determined that regulation is unwarranted, as specified in subparagraph (C) of paragraph (2) of, and subparagraph (c) of paragraph (3) of, subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4). Except as provided in subdivision (f), any of this hazardous waste disposed of, or submitted for offsite disposal, which exceeds 3,500 tons per month, is exempt from any fee imposed by this section.

(2) Two dollars and forty-eight cents ($2.48) for each ton, or fraction thereof, for up to the first 3,500 tons, of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, except as provided in subdivision (f), which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the mining of uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4). Except as provided in subdivision (f), any of this hazardous waste disposed of, or submitted for offsite disposal, which exceeds 3,500 tons per month is exempt from any fee imposed by this section.

(3) Nineteen dollars and eighty-four cents ($19.84) for each ton, or fraction thereof, of extremely hazardous waste.

(4) Nineteen dollars and eighty-four cents ($19.84) for each ton, or fraction thereof, of restricted hazardous wastes listed in Section 66900 of Title 22 of the California Administrative Code.

(5) Fifty cents ($0.50) for each ton or fraction thereof of solid hazardous waste residues resulting from incineration or other controlled chemical or physical treatment processes if the department determines that the processes alter the physical properties of the waste being incinerated or treated and effectively remove all free liquids and volatile organic constituents from the waste being incinerated or treated.

(6) Nine dollars and ninety-two cents ($9.92) for each ton, or fraction thereof, for up to the first 3,500 tons of hazardous waste disposed of, or submitted for offsite disposal, at each specific

facility by each producer or at each specific onsite facility, per month, of hazardous waste, except as provided in subdivision (f), which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4) or (5).

(b) The amount of fees payable to the State Board of Equalization pursuant to this section shall be calculated using the total wet weight, measured in tons or fractions thereof, of the hazardous waste in the form in which the hazardous waste existed at the time of disposal, submission for disposal, or application to land using the land disposal methods defined in Section 66122 of Title 22 of the California Administrative Code.

(c) Notwithstanding subdivision (a), the fee rate for hazardous waste disposed of, or submitted for offsite disposal, into a surface impoundment which is double lined, meets the criteria specified in paragraph (1), and for which a report has not been submitted pursuant to paragraph (2), is ninety-nine cents ($0.99) for each ton or fraction thereof, of hazardous waste so disposed of or submitted for disposal. The owner or operator of the surface impoundment shall certify to the State Board of Equalization that the requirements of subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) have been met before the fee rate specified in this subdivision may be applied to the hazardous waste disposed of, or submitted for disposal, into the surface impoundment.

(1) This subdivision applies only to hazardous waste disposed of, or submitted for disposal, into a surface impoundment which meets all the following criteria:

(A) The surface impoundment is double lined and is equipped with a leachate collection system which is in place and in operation, and complies with existing federal and state regulations and guidance documents published by the United States Environmental Protection Agency prior to July 1, 1984.

(B) The surface impoundment has in place and in operation a minimum of one up-gradient and two down-gradient monitoring wells capable of identifying the migration of any hazardous waste constituents disposed of into the surface impoundment.

(C) The surface impoundment has in place and in operation a vadose zone monitoring system capable of identifying the migration of any hazardous waste constituents disposed of into the surface impoundment from the impoundment into the zone between the surface and the water table.

(D) The surface impoundment has an enforceable site closure plan which initiates closure of the impoundment within 12 years after the surface impoundment is certified pursuant to this subdivision. This plan shall require the surface impoundment, and any surrounding soils contaminated by the impoundment, to be returned to a nonhazardous condition within five years of initiating closure.

(E) The owner or operator has submitted to the department and to the California Regional Water Quality Control Board

documentation demonstrating full compliance with subparagraphs (A), (B), (C), and (D).

(2) Upon discovering that, or receiving notification that, a surface impoundment certified for the fee rate specified in this subdivision has leaked or overflowed, and that there is migration into the vadose zone or into the waters of the state, the owner or operator of the surface impoundment shall report the migration to the department and the California Regional Water Quality Control Board within 24 hours after the migration or unauthorized release has been detected. The owner or operator shall transmit a full written report to the department and the regional board within five working days after the detection of the migration. The reporting requirements imposed by this paragraph are in addition to any requirements which may be imposed by Section 13271 of the Water Code. Unless the regional board, or its executive officer, determines that the presence of the hazardous waste constituents in the migration do not pose any short-term or long-term, present or potential, hazards to human health or the environment, the regional board shall issue a cease and desist order pursuant to Section 13301 of the Water Code prohibiting any discharge into the surface impoundment and shall take any other actions which are necessary.

(3) After a surface impoundment has been the subject of a report specified in paragraph (2), the fee rate specified in this subdivision for hazardous waste disposed of, or submitted for disposal, into that surface impoundment shall not apply and the fees shall be calculated pursuant to subdivision (a). The fee rate specified in this subdivision may again be applied to the hazardous waste disposed of, or submitted for disposal, into the surface impoundment only after the department and the California Regional Water Quality Control Board determines that hazardous constituents are no longer migrating from the surface impoundment, and that there is no significant potential for them to migrate from the surface impoundment into the vadose zone or into the waters of the state, so that the presence of the hazardous constituents poses, or would pose, a present or potential hazard to human health or the environment.

(4) Hazardous waste, as used in this subdivision, includes restricted hazardous waste.

(d) All fees imposed by this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(e) This section shall remain in effect until June 30, 1985, and on that date is repealed.

SEC. 4. Section 25174.6 is added to the Health and Safety Code, to read:

25174.6. (a) From July 1, 1985, to June 30, 1986, the fee provided pursuant to Section 25174 to be paid by persons disposing of hazardous waste onsite, or submitting hazardous waste for

disposal offsite, for each ton, or fraction thereof, of hazardous waste disposed of on land or applied to land, shall be determined as a percentage of the base rate, as adjusted by the State Board of Equalization, pursuant to Section 25174.02. The percentages of the base rate for determining these fees are as follows:

(1) Twenty-five percent of the base rate for each ton, or fraction thereof, for up to the first 3,500 tons of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, except as provided in subdivision (f), which is not subject to Subchapter III (commencing with Section 6921) of Chapter 82 of Title 42 of the United States Code, pursuant to subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4), or hazardous waste for which the Administrator of the Environmental Protection Agency has determined that regulation is unwarranted, as specified in subparagraph (C) of paragraph (2) of, and subparagraph (c) of paragraph (3) of, subsection (b) of Section 6921 of Title 42 of the United States Code and which is not otherwise subject to the fee specified in paragraph (3) or (4). Except as provided in subdivision (f), any of this hazardous waste disposed of, or submitted for offsite disposal, which exceeds 3,500 tons per month, is exempt from any fee imposed by this section.

(2) Twenty-five percent of the base rate for each ton, or fraction thereof, for up to the first 3,500 tons, of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, except as provided in subdivision (f), which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the mining of uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4). Except as provided in subdivision (f), any of this hazardous waste disposed of, or submitted for offsite disposal, which exceeds 3,500 tons per month is exempt from any fee imposed by this section.

(3) Two hundred percent of the base rate for each ton, or fraction thereof, of extremely hazardous waste.

(4) Two hundred percent of the base rate for each ton, or fraction thereof, of restricted hazardous wastes listed in Section 66900 of Title 22 of the California Administrative Code.

(5) Five percent of the base rate for each ton or fraction thereof of solid hazardous waste residues resulting from incineration or other controlled chemical or physical treatment processes if the department determines that the processes alter the physical properties of the waste being incinerated or treated and effectively remove all free liquids and volatile organic constituents from the waste being incinerated or treated.

(6) One hundred percent of the base rate for each ton, or

fraction thereof, for up to the first 3,500 tons of hazardous waste disposed of, or submitted for offsite disposal, at each specific facility by each producer or at each specific onsite facility, per month, of hazardous waste, except as provided in subdivision (f), which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4), (5), or (7) of this subdivision or subdivision (c).

(7) Twenty-five percent of the base rate for each ton, or fraction thereof, of waste resulting from the shredding of automobile bodies, sheet metal, and household appliances, if the producer of the shredder waste has certified in writing, to the department, that the producer has in place an ongoing program for inspection and removal of all automobile batteries, mufflers, tailpipes, and wheelweights from the shredder feed, and if the producer meets any other regulations imposed by the department.

(b) The amount of fees payable to the State Board of Equalization pursuant to this section shall be calculated using the total wet weight, measured in tons or fractions thereof, of the hazardous waste in the form in which the hazardous waste existed at the time of disposal, submission for disposal, or application to land using the land disposal methods defined in Section 66122 of Title 22 of the California Administrative Code.

(c) Notwithstanding subdivision (a), the fee rate for hazardous waste disposed of, or submitted for offsite disposal, into a surface impoundment which is double lined, meets the criteria specified in paragraph (1), and for which a report has not been submitted pursuant to paragraph (2), is 10 percent of the base rate for each ton or fraction thereof, of hazardous waste so disposed of or submitted for disposal. The owner or operator of the surface impoundment shall certify to the State Board of Equalization that the requirements of subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) have been met before the fee rate specified in this subdivision may be applied to the hazardous waste disposed of, or submitted for disposal, into the surface impoundment.

(1) This subdivision applies only to hazardous waste disposed of, or submitted for disposal, into a surface impoundment which meets all the following criteria:

(A) The surface impoundment is double lined and is equipped with a leachate collection system which is in place and in operation, and complies with existing federal and state regulations and guidance documents published by the United States Environmental Protection Agency prior to July 1, 1984.

(B) The surface impoundment has in place and in operation a minimum of one up-gradient and two down-gradient monitoring wells capable of identifying the migration of any hazardous waste constituents disposed of into the surface impoundment.

(C) The surface impoundment has in place and in operation a vadose zone monitoring system capable of identifying the migration of any hazardous waste constituents disposed of into the

surface impoundment from the impoundment into the zone between the surface and the water table.

(D) The surface impoundment has an enforceable site closure plan which initiates closure of the impoundment within 12 years after the surface impoundment is certified pursuant to this subdivision. This plan shall require the surface impoundment, and any surrounding soils contaminated by the impoundment, to be returned to a nonhazardous condition within five years of initiating closure.

(E) The owner or operator has submitted to the department and to the California Regional Water Quality Control Board documentation demonstrating full compliance with subparagraphs (A), (B), (C), and (D).

(2) Upon discovering that, or receiving notification that, a surface impoundment certified for the fee rate specified in this subdivision has leaked or overflowed, and that there is migration into the vadose zone or into the waters of the state, the owner or operator of the surface impoundment shall report the migration to the department and the California Regional Water Quality Control Board within 24 hours after the migration or unauthorized release has been detected. The owner or operator shall transmit a full written report to the department and the regional board within five working days after the detection of the migration. The reporting requirements imposed by this paragraph are in addition to any requirements which may be imposed by Section 13271 of the Water Code. Unless the regional board, or its executive officer, determines that the presence of the hazardous waste constituents in the migration do not pose any short-term or long-term, present or potential, hazards to human health or the environment, the regional board shall issue a cease and desist order pursuant to Section 13301 of the Water Code prohibiting any discharge into the surface impoundment and shall take any other actions which are necessary.

(3) After a surface impoundment has been the subject of a report specified in paragraph (2), the fee rate specified in this subdivision for hazardous waste disposed of, or submitted for disposal, into that surface impoundment shall not apply and the fees shall be calculated pursuant to subdivision (a). The fee rate specified in this subdivision may again be applied to the hazardous waste disposed of, or submitted for disposal, into the surface impoundment only after the department and the California Regional Water Quality Control Board determines that hazardous constituents are no longer migrating from the surface impoundment, and that there is no significant potential for them to migrate from the surface impoundment into the vadose zone or into the waters of the state, so that the presence of the hazardous constituents poses, or would pose, a present or potential hazard to human health or the environment.

(4) Hazardous waste, as used in this subdivision, includes

restricted hazardous waste.

(d) All fees imposed by this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(e) The fees specified in subdivision (a) shall be effective commencing July 1, 1985, and shall remain in effect only until June 30, 1986.

(f) The monthly tonnage limits on the amount of hazardous waste subject to the fee imposed by this section shall remain in effect only until June 30, 1986, and after that date the fees specified in this section shall apply to all amounts of the hazardous waste disposed of, or submitted for offsite disposal, per month.

(g) This section shall become operative on July 1, 1985.

SEC. 5. Section 25174.8 of the Health and Safety Code is amended to read:

25174.8. Any person who owns or operates a site which is contaminated with hazardous wastes, and who has a written agreement with the department to voluntarily clean up and remove contaminated soils or sludges from the site, may request that these soils or sludges be exempted by the department from the fees specified in Sections 25174 and 25174.6. The department may exempt from these fees those soils or sludges removed from the site which exceed 2,500 tons per month, and which are removed or transferred to an authorized facility, if all of the following applies:

(a) No disposal of hazardous wastes has occurred at the site undergoing cleanup, or on any portion of the site, from July 1, 1983, to July 1, 1986.

(b) The department has approved a site mitigation and cleanup plan submitted by the owner or operator of the site.

(c) The department determines that granting this exemption will not discourage the use of waste treatment or destruction technologies that would otherwise be economically feasible.

SEC. 6. Section 25174.9 of the Health and Safety Code is amended to read:

25174.9. Notwithstanding any other provision of law, the department may, by emergency regulation, increase or decrease the amount of the fee established pursuant to Section 25174 or 25174.6 if it determines that the fees established are insufficient or excessive to fund the appropriations from the Hazardous Waste Control Account and to provide for a 5 percent operating reserve.

For purposes of the Administrative Procedure Act, the adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these regulations shall not be subject to review, approval, or repeal by the Office of Administrative Law. The fees adopted pursuant to these

regulations shall be consistent with the formula specified in subdivision (a) of Section 25174.02, and shall remain in effect only until June 30, 1986.

SEC. 7. Section 25178.1 is added to the Health and Safety Code, to read:

25178.1. Consistent with Article VII of the California Constitution, the department shall contract with a qualified research firm for a study which will review the impact and incidence of the existing hazardous waste fee system.

The department shall submit the study to the Legislature on or before January 1, 1986. The department shall require the contractor to employ a statistically valid sampling method, and to generate, collect, and analyze all available data regarding all of the following issues:

(a) The environmental burden, or degree of hazard, posed by various hazardous waste types and disposal methods.

(b) The expenditures incurred from the Hazardous Waste Control Account and the Hazardous Substance Account for the department's regulation of specific industries, including all of the following information:

(1) Past and future Hazardous Substance Account and Hazardous Substance Cleanup Fund expenditures by site and hazardous waste facility, specifying the department's staff costs and contractor costs and categorizing the expenditures as site characterization expenditures, remedial action plan expenditures, or actual cleanup expenditures. The sites and facilities shall be identified by the industry which released the hazardous substance at the site or operates the facility, using the Standard Industrial Codes for the industry.

(2) Data on regulatory activities paid for by previous Hazardous Waste Control Account expenditures, including all of the following information:

(A) The number of hazardous waste facilities permits reviewed and issued. The permits shall be classified by the type of industry, including the following data:

(i) The average time to review and issue permits, as classified by the type of facility.

(ii) The average cost to review and issue permits, as classified by the type of facility.

(B) A listing of all hazardous waste facilities, in each industry, which have undergone surveillance activities, classified using the Standard Industrial Code, and the type of facilities which have undergone surveillance activities.

(3) A listing of hazardous waste facilities in each industry subject to enforcement action, classified using the Standard Industrial Code and the type of facility.

(4) Data on hazardous waste assessment activities, including all of the following information:

(A) The total number of hazardous waste streams submitted

for analysis by each industry, using the Standard Industrial Code.

(B) The average time to analyze and report the hazardous waste stream.

(C) The average cost for analysis of the hazardous waste stream.

(5) A compilation of data on resource recovery, including classification of the types of hazardous waste recovered by each industry, using the Standard Industrial Code, as a percentage of the total amount of hazardous waste recovered for that type of hazardous waste.

(c) Identification of taxes paid to Hazardous Substance Account, by each industry, according to both of the following:

(1) The percentage of overall tax paid by each industry, using the Standard Industrial Code.

(2) Within each tax category, the percent paid by each industry, using the Standard Industrial Code.

(d) Identification of the fees paid to the Hazardous Waste Control Account, by industry, according to both of the following:

(1) Fees paid for waste disposed of at off-site facilities. The information shall include the manifest data in each fee category for each industry, using the Standard Industrial Code, the type and percentage of waste disposal method in each fee category, the percentage of hazardous wastes disposed of which are not subject to the fees, and the type and percentage of hazardous waste streams not subject to the fees.

(2) Fees paid for waste disposed of at on-site facilities. This information shall be classified by industry, using the Standard Industrial Code, and shall include an analysis and comparison of statistics from the data of the State Board of Equalization and the department's monthly reports for the percentage of fees collected from each fee category, the types of wastes, by percentage, within each fee category, disposal methods, by percentage, within each fee category, and a summary of the data on on-site handling before disposal, using the department's monthly reports.

SEC. 8. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the Hazardous Waste Control Account to the State Department of Health Services for carrying out the study required by Section 25178.1 of the Health and Safety Code.

SEC. 9. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

SEC. 10. Section 1 of this act shall become operative on July 1, 1985.

SEC. 11. The Legislature finds and declares that, notwithstanding Section 12080.8 of the Government Code, the

changes made to Sections 25174, 25174.6, 25174.8, and 25174.9 of the Health and Safety Code by this act, and the addition of Sections 25174.02 and 25178.1 to the Health and Safety Code made by this act, are not inconsistent with the Governor's Reorganization Plan No. 1 of the 1985–86 Regular Session of the Legislature and shall not be suspended if the reorganization plan takes effect. If the Governor's Reorganization Plan No. 1 of the 1985–86 Regular Session takes effect, the Legislative Counsel, in preparing a bill pursuant to Section 12081 of the Government Code, shall make those changes in the statutes that are necessary to incorporate the changes made to Sections 25714, 25714.6, 25714.8, and 25714.9 of the Health and Safety Code by this act, and the addition of Sections 25174.02 and 25178.1 to the Health and Safety Code made by this act, in addition to the changes made by the reorganization plan.

SEC. 12. 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 maintain the operation of state monitoring and control of the disposal of toxic materials and to prevent the endangerment of public health and safety which may be commenced prior to January 1, 1986, it is necessary that this act take effect immediately.

CHAPTER 114

An act to amend Sections 25210.4a, 54717, 65010, 65302, 65352, 66464, 66477.1, 66492, and 66493 of, and to repeal Section 66422 of, the Government Code, to amend Sections 46050.1 and 56032 of the Health and Safety Code, to repeal and add Section 21551 to the Public Contract Code, and to amend Section 941 of the Streets and Highways Code, and to add Section 51 to, and to repeal Section 33 of, the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session), relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 1985. Filed with Secretary of State June 28, 1985]

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

SECTION 1. Section 25210.4a of the Government Code is amended to read:

25210.4a. "Miscellaneous extended services," as used in this chapter includes, but is not limited to, all of the following:

(1) Water service, including the acquisition, construction,

operation, replacement, maintenance, and repair of water supply and distribution systems, including land, easements, rights-of-way, and water rights.

(2) Sewer service, including the acquisition, construction, operation, replacement, maintenance, and repair of sewage collection, transportation, and disposal systems, including land, easements, and rights-of-way.

(3) Pest or rodent control.

(4) Street and highway sweeping.

(5) Street and highway lighting, including the acquisition, construction, replacement, maintenance, and repair of a street or highway lighting system, including land, easements, and rights-of-way.

(6) Refuse collection.

(7) Garbage collection.

(8) Ambulance service.

(9) Planning for a part of the county by a planning agency established pursuant to Article 1 (commencing with Section 65100) of Chapter 3 of Title 7.

(10) Soil conservation and drainage control.

(11) Animal control.

(12) Services provided by a municipal advisory council established pursuant to Section 31010.

(13) Transportation services.

(14) Geologic hazard abatement on public or private property or structures where the board of supervisors determines that it is in the public interest to abate geologic hazards. "Geologic hazard," for purposes of this subdivision, means an actual or threatened landslide, land subsidence, soil erosion, earthquake, or any other natural or unnatural movement of land or earth.

(15) Road maintenance. Street, highway, and bridge construction, improvement and maintenance, including related drainage facilities and structures, necessary design and engineering services, and the acquisition of land, easements, and rights-of-way needed for the work. Article 3.5 (commencing with Section 20120) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code is applicable to the furnishing of extended services pursuant to this paragraph.

SEC. 2. Section 54717 of the Government Code is amended to read:

54717. (a) The proposition shall be submitted to the eligible voters within the jurisdiction of the affected local agency, zone, or area of benefit established by the local agency, and shall take effect upon approval by a majority vote of the voters voting on the proposition. If 12 or more registered voters reside within the affected local agency, zone, or area of benefit at the close of the hearing required by Section 54716, and for at least the preceding 90 days, the vote shall be by the registered voters with each voter having one vote. Otherwise, the vote shall be by the landowners with each landowner having one vote for each acre of land or portion of an acre

of land that he or she owns within the area. The proposal may take effect without a vote if there are less than 12 registered voters and a petition or other written consent to the levy of the assessment, executed by the owners of at least 60 percent in area of lands within the area of benefit established by the local agency, is filed with the legislative body during the hearing. "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of the land, and its determination of ownership shall be final and conclusive for the purposes of this provision. Ballots for a special election for this purpose may be distributed to qualified electors by mail with return postage prepaid.

(b) The legislative body may annually thereafter determine the cost of the service which is financed by the assessment and, by ordinance or resolution, determine and impose the assessment.

SEC. 3. Section 65010 of the Government Code is amended to read:

65010. (a) Formal rules of evidence or procedure applicable in judicial actions and proceedings shall not apply in any proceeding subject to this title except to the extent that a public agency otherwise provides by charter, ordinance, resolution, or rule of procedure.

(b) No action, inaction, or recommendation by any public agency or its legislative body or any of its administrative agencies or officials on any matter subject to this title shall be held invalid or set aside by any court on the ground of the improper admission or rejection of evidence or by reason of any error, irregularity, informality, neglect, or omission (hereafter, error) as to any matter pertaining to petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals, or any matters of procedure subject to this title, unless the court finds that the error was prejudicial and that the party complaining or appealing suffered substantial injury from that error and that a different result would have been probable if the error had not occurred. There shall be no presumption that error is prejudicial or that injury was done if the error is shown.

SEC. 4. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of

land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to those areas. The land use element shall designate, in a land use category that provides for timber production, those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5. The diagram for the land use element shall designate those parcels of real property for timberland production which have been so zoned pursuant to the California Timberland Productivity Act of 1982.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Prevention and control of the pollution of streams and other waters.

(3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(4) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(5) Protection of watersheds.

(6) The location, quantity and quality of the rock, sand and gravel resources.

(7) Flood control.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides, subsidence and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, peak load water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

Each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of the safety element and any technical studies used for developing the safety element.

SEC. 5. Section 65352 of the Government Code is amended to read:

65352. Prior to action by a legislative body to adopt or substantially amend a general plan, the planning agency shall refer

the proposed action to all of the following entities:

(a) Any city or county, within or abutting the area covered by the proposal, and any special district which may be significantly affected by the proposed action, as determined by the planning agency.

(b) The local agency formation commission.

(c) Any areawide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

(d) Any federal agency if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.

Each entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified by the planning agency.

This section is directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted.

To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

SEC. 8. Section 66422 of the Government Code is repealed.

SEC. 9. Section 66464 of the Government Code is amended to read:

66464. (a) Unless otherwise provided by the county, if the final map or map parcel is not subject to Section 66493, after the approval by the city of a final map of a subdivision or a parcel map, the city clerk shall transmit the map to the county recorder.

(b) If a final map or parcel map is subject to Section 66493, after all certificates and security required under Section 66493 have been filed and deposited with the clerk of the board of supervisors and approved by the county, the clerk of the board of supervisors shall certify that the certificates have been filed and deposits have been made and shall transmit the final map or parcel map to the county recorder.

(c) After the approval by the county of a final or parcel map of a subdivision within unincorporated territory, the map shall be transmitted ultimately to the county recorder.

SEC. 10. Section 66477.1 of the Government Code is amended to read:

66477.1. (a) At the time the legislative body approves a final map, it shall also accept, accept subject to improvement, or reject any offer of dedication. The clerk of the legislative body shall certify on the map the action by the legislative body.

(b) The legislative body of a county may accept into the county road system, pursuant to Section 941 of the Streets and Highways Code, any road for which an offer of dedication has been accepted or accepted subject to improvements.

SEC. 11. Section 66492 of the Government Code is amended to

read:

66492. Prior to the filing of the final map or parcel map with the legislative body, the subdivider shall file with the county recorder of the county in which any part of the subdivision is located, a certificate from the official computing redemptions in any public agency in which any part of the subdivision is located, showing that, according to the records of that office, there are no liens against the subdivision or any part thereof for unpaid, state, county, municipal or local taxes or special assessments collected as taxes, except taxes or special assessments not yet payable.

SEC. 12. Section 66493 of the Government Code is amended to read:

66493. (a) Whenever any part of the subdivision is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map or parcel map shall not be recorded until the owner or subdivider does both of the following:

(1) Files with the clerk of the board of supervisors of the county wherein any part of the subdivision is located, a certificate prepared by the appropriate state or local official giving his or her estimate of those taxes or assessments.

(2) Executes and files with the clerk of the board of supervisors of the county wherein any part of the subdivision is located, security conditioned upon the payment of all state, county, municipal, and local taxes and the current installment of principal and interest of all special assessments collected as taxes, which at the time the final map is recorded are a lien against the property, but which are not yet payable.

(b) If the land being subdivided is a portion of a larger parcel shown on the last preceding tax roll as a unit, the security for payment of taxes need be only for that sum as may be determined by the county to be sufficient to pay the current and delinquent taxes on the land being subdivided, together with all accrued penalties and costs if those taxes have been or are allowed to become delinquent. Separate assessor's parcel numbers shall be given to the portion of the larger parcel which is not within the proposed subdivision and to the parcel or parcels which are within the proposed subdivision.

If the land being subdivided is sold for taxes, it may be redeemed for the sale without the redemption of the remainder of the larger parcel of which it is a part pursuant to the Revenue and Taxation Code as if it were held in ownership separate from and other than the ownership of the remainder.

(c) Whenever land subject to a special assessment or bond which may be paid in full is divided by the line of a lot or parcel of the subdivision, that assessment or bond shall be paid in full, or security shall be filed with the clerk of the board of supervisors, payable to the county as trustee for the assessment bondholders for the payment of the special assessment or bond. This section does not apply to bonds issued under the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and

Highways Code.

(d) The amount of security for "taxes" in subdivision (a) or "current taxes" for subdivision (b), shall consider only amounts shown on the regular assessment roll or shown on any supplemental rolls prepared pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

SEC. 13. Section 46050.1 of the Health and Safety Code is amended to read:

46050.1. Notwithstanding Section 65040.2 of the Government Code, the office shall adopt, in coordination with the Office of Planning and Research and each state department and agency as it deems appropriate, guidelines for the preparation and content of noise elements as required by Section 65302 of the Government Code.

In adding Section 39850.1 to the Health and Safety Code, which was the predecessor to this section, and amending Section 65302 of the Government Code by Chapter 1124 of the Statutes of 1975, it was the intent of the Legislature to ensure, insofar as possible, that new and periodically revised noise elements in local governments' general plans be more standardized, comprehensive, and utilitarian than they had been previously.

However, the Legislature also recognized that some cities and counties had already adopted noise elements pursuant to the existing Section 65302 of the Government Code and that others had received extensions on the due date of their noise element until September 20, 1975. Those cities and counties were not required to resubmit new noise elements consistent with Section 65302 of the Government Code, or to recognize guidelines adopted pursuant to this section, but are required, upon initial and periodic revision of the noise element, to comply with Section 65302 of the Government Code and to recognize those guidelines.

SEC. 14. Section 56032 of the Health and Safety Code is amended to read:

56032. A plan for a large scale urban development shall contain, as a minimum, all of the following elements:

(a) A legal description of the exterior boundaries of the site proposed as a large scale urban development together with a map encompassing the area and delineating thereon the boundaries.

(b) A comprehensive plan for the financing of public improvements and services, including both the costs of capital outlay and the costs of operation and maintenance pursuant to Section 56036. The plan shall address public improvement financing measures to be taken in the event that the sponsor falls behind the construction schedule set out in the plan, or if the sponsor abandons the project at any point.

(c) A specific timetable for the completion of each phase of the development.

(d) A comprehensive development plan which is consistent with state and local general plan requirements, and which specifies the

uses to which the proposed parcels will be dedicated. At least 20 percent of the gross acreage shall be set aside for open-space or park purposes. If the comprehensive development plan is not consistent with the applicable local general plan, it shall be accompanied by any necessary general plan amendment which may be considered simultaneously with the development application. However, any amendment of the general plan pursuant to this subdivision shall not be counted as a general plan amendment for the purposes of subdivision (b) of Section 65358 of the Government Code.

(e) Information on the number of jobs to be created in the large scale urban development and an assessment of the income levels of the jobs. The plan shall provide for development of a balance of jobs and housing that would maximize the opportunities of large scale urban development residents to work there. If the legislative body finds that the sponsor is not making adequate efforts to achieve this balance between jobs and housing at the end of each three-year period following approval of the plan, the legislative body shall take whatever actions it deems necessary to ensure that balance, including halting the issuance of development approvals.

(f) A detailed plan for the provision of housing for all income ranges based on the identified housing needs created by the large scale urban development. Not less than 25 percent of the housing units shall be affordable to low- and moderate-income households. The plan shall provide that, at the end of each three-year period from the time of approval of the plan, at least 25 percent of the housing units completed or under construction shall be affordable to low- and moderate-income households. The timetable required pursuant to subdivision (c) shall provide for the development of housing in accordance with this subdivision.

(g) An evaluation of the impact, if any, of the plan on agricultural lands located within, or in proximity to, the area to be included within the plan and on crop production of these lands. The evaluation shall include, at a minimum, an assessment of the economic impact of converting agricultural lands to other uses, the necessity of preserving lands in agricultural use, and any adverse impact which the development of a large scale urban development pursuant to this division would have on agricultural operations in proximity to the large scale urban development. The legislative body shall, based on the findings of these evaluations, require measures necessary to mitigate the adverse impact, if any, of the large scale urban development on agricultural lands and crop production within or in proximity to the proposed boundaries of the large scale urban development.

(h) A detailed plan for the development of commercial and industrial sites which may be necessary to provide a balanced economic base for the large scale urban development and to provide economic opportunities for the residents of the large scale urban development.

(i) A comprehensive plan for the development of public facilities,

such as transit and schools, which may be required to meet the needs of the large scale urban development.

(j) An evaluation of impact of the plan on the capacity of existing sewer facilities and water resources in contiguous cities and in other affected areas.

(k) An evaluation of the impact of the plan on existing or planned industrial and commercial developments in contiguous cities.

(*l*) An evaluation of the impact of the plan on air and water quality within the region in which the large scale urban development is to be located and on the public service facilities within that region.

SEC. 15. Section 21551 of the Public Contract Code is repealed.

SEC. 16. Section 21551 is added to the Public Contract Code, to read:

21551. All contracts for the construction of any unit of work estimated to cost over ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in accordance with Chapter 2 (commencing with Section 21000). If cost of the project or service will not exceed ten thousand dollars ($10,000), the district may have the work done by force account. The district may purchase in the open market, without advertising for bid, materials and supplies for use in any work either under contract or by force account.

SEC. 17. Section 941 of the Streets and Highways Code is amended to read:

941. (a) Boards of supervisors shall, by proper order, cause those highways which are necessary to public convenience to be established, recorded, constructed, and maintained in the manner provided in this division.

(b) No public or private road shall become a county highway until and unless the board of supervisors, by appropriate resolution, has caused the road to be accepted into the county road system. No county shall be held liable for failure to maintain any road unless and until it has been accepted into the county road system by resolution of the board of supervisors.

(c) The acceptance of any road or the acceptance of any road subject to improvements pursuant to Section 66477.1 of the Government Code does not constitute the acceptance of the road into the county road system in the absence of the adoption of a resolution by the board of supervisors accepting the road into the county road system.

SEC. 18. Section 33 of the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session) is repealed.

SEC. 19. Section 51 is added to the San Diego County Flood Control District Act (Chapter 55 of the Statutes of 1966, First Extraordinary Session), to read:

Sec. 51. Title to all easements and other real property owned by the district lying within the boundaries of an incorporated city shall, on July 1, 1985, automatically vest solely in the city. Whenever an

easement or other real property owned by the district is annexed to a city, title to the easement or other real property shall automatically vest solely in the city.

SEC. 20. Notwithstanding Sections 54902 and 54903 of the Government Code, the incorporation of the City of Mammoth Lakes is effective for purposes of the allocation of property tax revenues pursuant to Sections 96 through 99 of the Revenue and Taxation Code for the 1985–86 fiscal year if the statement and map or plat required by Section 54900 of the Government Code were filed on or before July 1, 1985.

SEC. 21. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the City of Mammoth Lakes. The Legislature finds, therefore, that this special act is necessary. The city was unable to file the statement amd map or plat required by Section 54900 of the Government Code by January 1, 1985, as required by Section 54902 of that code in order to receive an allocation of property tax revenues for the 1985–86 fiscal year.

SEC. 22. No appropriation is made by this act pursuant to Section 6 of Article XIII B of the California Constitution because there are savings as well as costs in this act which in the aggregate do not result in additional net costs. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 4 (commencing with Section 17550) of Part 7 of Division 2 of Title 2 of the Government Code.

SEC. 23. 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 correct certain cross-references in the law to other provisions of law and to revise certain provisions relating to the rules of evidence or procedure applicable to proceedings under the planning and zoning law, in order to reorganize, recast, and clarify other provisions of law relating to local governments, and in order to authorize the distribution of property tax revenues to the City of Mammoth Lakes as soon as possible, it is necessary for this act to take effect immediately.

In addition, Section 33 of Chapter 912 of the Statutes of 1984 was unintentionally superseded by Article 120 of Chapter 1128 of the Statutes of 1984. In order to allow the district to operate under contracting procedures applicable to the County of San Diego as intended by the Legislature and in order to clarify property rights between the district and cities which will be detached from the district by July 1, 1985, this chapter must take effect immediately.

CHAPTER 115

An act to amend Sections 41850, 56425, 56711, 56728.6, and 56760 of, to add Sections 46200.5, 46201.5, 56427, 56428, 56429, 56728.8, Article 8 (commencing with Section 56771) to Chapter 7 of Part 30, and Section 56830 to, and to repeal and add Sections 56728.6 and 56730.5 of, the Education Code, relating to special education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 1985 Filed with Secretary of State June 28, 1985.]

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

SECTION 1. Section 41850 of the Education Code is amended to read:

41850. (a) Apportionments made pursuant to this article shall only be made for transportation, as defined in this section.

(b) As used in this article, "transportation" includes all of the following:

(1) The transportation of pupils between their homes and the regular full-time day school they attend, as provided by a school district or county superintendent of schools.

(2) The payment of moneys by a school district or county superintendent of schools to parents or guardians of pupils made in lieu of providing for the transportation of pupils between their homes and the regular full-time day schools they attend.

(3) Providing board and lodging to pupils by a school district or county superintendent of schools made in lieu of providing for the transportation of pupils between their homes and the regular full-time day schools they attend.

(4) The transportation of pupils between the regular full-time day schools they would attend and the regular full-time occupational training classes they attend, as provided by a regional occupational center or program.

(c) For purposes of this article, the computation of the allowances provided to a regional occupational center or program shall be subject to all of the following:

(1) A regional occupational center or program shall receive no allowance for 50 percent of the total transportation costs.

(2) A regional occupational center or program shall be eligible for a transportation allowance only if the total transportation costs exceed 10 percent of the total operational budget of the regional occupational center or program.

(3) A regional occupational center or program eligible for a transportation allowance pursuant to paragraph (2) shall receive an amount equal to one-third of the transportation costs subject to reimbursement.

(d) As used in this article, "transportation" includes the

transportation of individuals with exceptional needs, as specified in their individualized education program.

SEC. 2. Section 46200.5 is added to the Education Code, to read:

46200.5. (a) In the 1985–86 fiscal year, for each county office of education that certifies to the Superintendent of Public Instruction that it offers 180 days or more of instruction per school year of special day classes pursuant to Section 56364, the Superintendent of Public Instruction shall determine an amount equal to seventy dollars ($70) per unit of current year second principal apportionment average daily attendance for special day classes. This computation shall be included in computations made by the superintendent pursuant to Article 2 (commencing with Section 56710) of Chapter 7 of Part 30.

(b) For any county office of education that received an apportionment pursuant to subdivision (a), that offers less than 180 days of instruction in the 1986–87 year or any fiscal year thereafter, and that does not provide the minimum number of instructional minutes specified in subdivision (a) of Section 46201.5 for that fiscal year, the Superintendent of Public Instruction shall reduce the special education apportionment per unit of average daily attendance for that fiscal year by an amount attributable to the increase received pursuant to subdivision (a), as adjusted in fiscal years subsequent to the 1985–86 fiscal year.

SEC. 3. Section 46201.5 is added to the Education Code, to read:

46201.5. (a) In each of the 1985–86 and 1986–87 fiscal years, for each county office of education that certifies to the Superintendent of Public Instruction that, for special day classes pursuant to Section 56364, it offers at least the amount of instructional time specified in this subdivision, the Superintendent of Public Instruction shall determine an amount equal to eighty dollars ($80) in the 1985–86 fiscal year and forty dollars ($40) in the 1986–87 fiscal year per unit of current year second principal apportionment average daily attendance for special day classes in kindergarten and grades 1 to 8, inclusive, and one hundred sixty dollars ($160) in the 1985–86 fiscal year and eighty dollars ($80) in the 1986–87 fiscal year per unit of current year second principal apportionment average daily attendance for special day classes in grades 9 to 12, inclusive.

This computation shall be included in computations made by the superintendent pursuant to Article 2 (commencing with Section 56710) of Chapter 7 of Part 30.

(1) In the 1985–86 fiscal year:

(A) 34,500 minutes in kindergarten.

(B) 47,016 minutes in grades 1 to 3, inclusive.

(C) 50,000 minutes in grades 4 to 8, inclusive.

(D) 57,200 minutes in grades 9 to 12, inclusive.

(2) In the 1986–87 fiscal year:

(A) 36,000 minutes in kindergarten.

(B) 50,400 minutes in grades 1 to 3, inclusive.

(C) 54,000 minutes in grades 4 to 8, inclusive.

(D) 64,800 minutes in grades 9 to 12, inclusive.

(b) Each county office of education that receives an apportionment pursuant to subdivision (a) in a fiscal year shall, in the subsequent fiscal year, add the amount received per pupil to the county office's base special education apportionment.

(c) For each county office of education that receives an apportionment pursuant to subdivision (a) in the 1985–86 fiscal year, and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (1) of subdivision (a) in the 1986–87 fiscal year, or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the special education apportionment for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1986–87 fiscal year special education apportionment pursuant to subdivision (b), as adjusted in the 1986–87 fiscal year and fiscal years thereafter.

For each county office of education that receives an apportionment pursuant to subdivision (a) in the 1986–87 fiscal year, and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 1987–88 fiscal year, or any fiscal year thereafter, the superintendent shall reduce the special education apportionment for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1987–88 fiscal year special education apportionment pursuant to subdivision (b), as adjusted in the 1987–88 fiscal year and fiscal years thereafter.

SEC. 4. Section 56425 of the Education Code is amended to read:

56425. As a condition of receiving state aid pursuant to this part, each district, special education local plan area, or county office that operated early education programs for individuals with exceptional needs younger than three years of age, as defined in Section 56026, and that received state or federal aid for special education for those programs in the 1980–81 fiscal year, shall continue to operate infant programs in the 1981–82 fiscal year and each fiscal year thereafter.

If a district or county office offered those programs in the 1980-81 fiscal year but in a subsequent year transfers the programs to another district or county office in the special education local plan area, the district or county office shall be exempt from the provisions of this section in any year when the programs are offered by the district or county office to which they were transferred.

A district, county office or special education local plan area that is required to offer a program pursuant to this section shall be eligible for funding pursuant to Chapter 7 (commencing with Section 56700) of Part 30.

SEC. 5. Section 56427 is added to the Education Code, to read:

56427. Not less than two million three hundred twenty-four thousand dollars ($2,324,000) of the federal discretionary funds appropriated to the State Department of Education under Public Law 94-142 in any fiscal year shall be expended for programs for handicapped infants, until the time the Legislature, by statute, pursuant to recommendation of the department, determines that the

funds are no longer needed for that purpose.

The programs to be funded under this section need not be deemed eligible under Section 56425 or 56728.8.

SEC. 5.5. Section 56428 is added to the Education Code, to read:

56428. For the 1985–86 fiscal year, and each fiscal year thereafter, any instructional personnel services unit that was used in the prior fiscal year to provide services to children younger than three years of age shall continue to be used for that purpose. If a special education local plan area becomes ineligible for all or any portion of those instructional personnel service units operated and fundable in the prior fiscal year, the Superintendent of Public Instruction shall allocate those units to another local plan area for the purpose of providing services to children younger than three years of age.

SEC. 5.7. Section 56429 is added to the Education Code, to read:

56429. In order to assure the maximum utilization and coordination of local early intervention services, eligibility for the receipt of funds pursuant to Section 56425, 56427, or 56728.8 is conditioned upon the approval by the Superintendent of Public Instruction of a local plan for early intervention services, which approval shall apply for not less than one, nor more than three, years.

SEC. 6. Section 56711 of the Education Code is amended to read:

56711. The county superintendent shall compute for each district and county office the sum of all the following:

(a) Instructional personnel services amount pursuant to Article 3 (commencing with Section 56720).

(b) Support services amount pursuant to Article 4 (commencing with Section 56730).

(c) Amount for pupils in nonpublic, nonsectarian schools pursuant to Article 5 (commencing with Section 56740).

(d) Amount for instructional time entitlement for special day classes under Sections 46200.5 and 46201.5.

SEC. 6.5. Section 56728.6 of the Education Code is amended to read:

56728.6. (a) Notwithstanding subdivision (d) of Section 56760, in the 1984–85 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of those instructional personnel service units operated and fundable at the second principal apportionment of the prior fiscal year, so long as the unduplicated pupil count divided by the number of instructional personnel service units is equal to or greater than the following:

(1) For special classes and centers—9.

(2) For resource specialist programs—21.

(3) For designated instruction and services—20.

(b) Notwithstanding subdivision (d) of Section 56760, in the 1984–85 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of instructional personnel service units in excess of the number of instructional personnel service units operated and fundable at the second principal apportionment of the prior fiscal year only with the

authorization of the Superintendent of Public Instruction.

(1) The superintendent shall not authorize additional units for a special education local plan area if, for that special education local plan area, the percentage of pupils in kindergarten and grades 1 through 12 enrolled in special education programs would exceed 10 percent.

(2) The superintendent shall not authorize additional units for a special education local plan area if, for that special education local plan area, the ratio of pupils in kindergarten and grades 1 through 12 receiving a specific instructional service would exceed the following:

(A) For special classes and centers—0.028 percent.

(B) For resource specialist programs—0.040 percent.

(C) For designated instruction services—0.042 percent.

(c) The Superintendent of Public Instruction shall base the authorization of funding for special education local plan areas pursuant to this section, including the reallocation of instructional personnel service units, upon criteria which shall include, but not be limited to, all of the following:

(1) Changes in the total number of pupils enrolled in kindergarten and grades 1 through 12.

(2) High and low average caseloads per instructional personnel service unit for each instructional setting.

(3) Lower-than-average and higher-than-average percentages of pupils in kindergarten and grades 1 through 12 who are currently enrolled in special education programs.

(d) A special education local plan area may apply for, and the superintendent may grant, a waiver of any of the standards and criteria specified in this section if compliance would prevent the provision of a free, appropriate public education or would create undue hardship. In granting the waivers, the superintendent shall consider the following:

(1) Pupil density of 25 or fewer units of average daily attendance per square mile in local plan areas of 30,000 or fewer average daily attendance.

(2) The location of licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities within the boundaries of a local plan if 5 percent or more of the local plan's unduplicated pupil count resides in those facilities.

(e) For the purpose of this section, a special education local plan area may apply for, and the superintendent may grant, a waiver of the standards specified in paragraph (2) of subdivision (b) if the waiver is programmatically justified.

(f) For the 1984–85 fiscal year only, a special education local plan area may apply for, and the superintendent may grant, a waiver of any of the standards and criteria specified in this section if either of the following applies:

(1) Compliance would require the termination of a contract employee in violation of Section 44949 or 44955.

(2) The special education local plan area's duplicated pupil count divided by the number of designated instruction and service units is equal to or greater than 39.

(g) By authorizing units pursuant to this subdivision, the superintendent shall not increase the statewide total number of instructional personnel service units for purposes of state apportionments unless an appropriation specifically for growth in the number of instructional personnel service units is made in the annual Budget Act or other legislation. If such an appropriation is made, units authorized by the superintendent pursuant to this subdivision that result in an increase in the statewide total number of instructional personnel service units are subject to the following restrictions:

(1) The units shall be funded only by such appropriation and no other funds may be apportioned for the units.

(2) All units shall be fully funded pursuant to Chapter 7 (commencing with Section 56700) of Part 30.

(h) This section shall become operative July 1, 1984.

(i) This section shall become inoperative on July 1, 1985, and, as of January 1, 1986, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1986, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 56728.6 is added to the Education Code, to read:

56728.6. (a) Notwithstanding subdivision (d) of Section 56760, in the 1985–86 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of those instructional personnel service units operated and fundable for services to children three years of age or older at the second principal apportionment of the prior fiscal year, so long as the pupil count divided by the number of instructional personnel service units is equal to or greater than the following:

(1) For special classes and centers—9, based on the unduplicated pupil count.

(2) For resource specialist programs—21, based on the unduplicated pupil count.

(3) For designated instruction and services—20, based on the unduplicated pupil count, or 39, based on the duplicated pupil count.

(b) Notwithstanding subdivision (d) of Section 56760, in the 1984–85 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of instructional personnel service units for services to children three years of age or older in excess of the number of instructional personnel service units operated and fundable at the second principal apportionment of the prior fiscal year only with the authorization of the Superintendent of Public Instruction.

(1) The superintendent shall not authorize additional units for a special education local plan area if, for that special education local plan area, the percentage of pupils in kindergarten and grades 1 through 12 enrolled in special education programs, excluding pupils

less than three years of age, would exceed 10 percent.

(2) The superintendent shall not authorize additional units for a special education local plan area if, for that special education local plan area, the ratio of pupils in kindergarten and grades 1 through 12 receiving a specific instructional service, excluding pupils less than three years of age, would exceed the following:

(A) For special classes and centers—0.028.

(B) For resource specialist programs—0.040.

(C) For designated instruction services—0.042.

(3) The superintendent may authorize additional units for a special education local plan area only if the area's pupil-instructional personnel unit ratios, based on the unduplicated pupil count, meet or exceed the ratios specified in paragraphs (1), (2), and (3) of subdivision (a).

(c) The Superintendent of Public Instruction shall base the authorization of funding for special education local plan areas pursuant to this section, including the reallocation of instructional personnel service units, upon criteria which shall include, but not be limited to, all of the following:

(1) Changes in the total number of pupils enrolled in kindergarten and grades 1 through 12.

(2) High- and low-average caseloads per instructional personnel service unit for each instructional setting.

(3) Lower than average and higher than average percentages of pupils in kindergarten and grades 1 through 12 who are currently enrolled in special education programs.

(d) A special education local plan area may apply for, and the superintendent may grant, a waiver of any of the standards and criteria specified in this section if compliance would prevent the provision of a free, appropriate public education or would create undue hardship. In granting the waivers, the superintendent shall consider the following:

(1) Pupil density of 25 or fewer units of average daily attendance per square mile in local plan areas of 30,000 or fewer average daily attendance, or pupil density of 20 or fewer units of average daily attendance per square mile in local plan areas of more than 30,000 average daily attendance.

(2) The location of licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities within the boundaries of a local plan if 5 percent or more of the local plan's unduplicated pupil count resides in those facilities.

(e) For the purpose of this section, a special education local plan area may apply for, and the superintendent may grant, a waiver of the standards specified in paragraph (2) of subdivision (b) if the waiver is programmatically justified.

(f) By authorizing units pursuant to this section, the superintendent shall not increase the statewide total number of instructional personnel service units for purposes of state apportionments unless an appropriation specifically for growth in

the number of instructional personnel service units is made in the annual Budget Act or other legislation. If such an appropriation is made, units authorized by the superintendent pursuant to this subdivision that result in an increase in the statewide total number of instructional personnel service units are subject to the following restrictions:

(1) The units shall be funded only by such appropriation and no other funds may be apportioned for the units.

(2) All units shall be fully funded pursuant to Chapter 7 (commencing with Section 56700) of Part 30.

(g) This section shall become operative July 1, 1985.

SEC. 8. Section 56728.8 is added to the Education Code, to read:

56728.8. (a) Notwithstanding subdivision (d) of Section 56760, for the 1985–86 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of those instructional personnel service units operated and fundable for services to individuals with exceptional needs younger than three years of age at the second principal apportionment of the prior fiscal year, so long as the unduplicated pupil count of these pupils divided by the number of instructional personnel service units is not less than the following:

(1) For special classes and centers—12.

(2) For resource specialist programs—24.

(3) For designated instruction and services—12.

(b) Notwithstanding subdivision (d) of Section 56760, in the 1985–86 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of instructional personnel service units for services to individuals with exceptional needs younger than three years of age in excess of the number of instructional personnel service units operated and fundable at the second principal apportionment of the prior fiscal year only with the authorization of the Superintendent of Public Instruction.

(c) The Superintendent of Public Instruction shall base the authorization of funding for special education local plan areas pursuant to this section, including the reallocation of instructional personnel service units, upon criteria that shall include, but not be limited to, the following:

(1) Changes in the total number of pupils younger than three years of age enrolled in special education programs.

(2) High- and low-average caseloads per instructional personnel service unit for each instructional setting.

(d) Notwithstanding subdivision (e) of Section 56760, infant programs in special classes and centers funded pursuant to this item shall be supported by two aides, unless the Superintendent of Public Instruction determines otherwise.

(e) Infant services in resource specialist programs funded pursuant to this item shall be supported by one aide.

(f) In determining the number of instructional personnel service units for which a special education local plan area may qualify, a

minimum of six infants shall constitute eligibility for the initial unit. However, programs operating pursuant to Section 56425 shall be allowed a minimum of one initial unit for the 1985–86 fiscal year. When units are allocated pursuant to this subsection, the Superintendent of Public Instruction shall allocate only the least expensive unit appropriate.

(g) Beginning with the 1986–87 fiscal year, those programs operating pursuant to Section 56425 with fewer than six infants shall receive a partial unit, as determined by the Superintendent of Public Instruction.

(h) A special education local plan area may apply for, and the superintendent may grant, a waiver of any of the standards and criteria specified in this section if compliance would prevent the provision of a free, appropriate public education or would create undue hardship. In granting the waivers, the superintendent shall give priority to the following factors:

(1) Pupil density of 25 or fewer units of average daily attendance per square mile in local plan areas of 30,000 or fewer average daily attendance, or pupil density of 20 or fewer units of average daily attendance per square mile in local plan areas of more than 30,000 average daily attendance.

(2) The location of licensed children's institutions, foster family homes, residential medical facilities, or similar facilities within the boundaries of a local plan if 5 percent or more of the local plan's unduplicated pupil count resides in those facilities.

(i) By authorizing units pursuant to this section, the superintendent shall not increase the statewide total number of instructional personnel service units for purposes of state apportionments unless an appropriation specifically for growth in the number of instructional personnel service units is made in the annual Budget Act or other legislation. If such an appropriation is made, units authorized by the superintendent pursuant to this section are subject to the following restrictions:

(1) The units shall be funded only by such an appropriation and no other funds may be apportioned for the units.

(2) All units shall be fully funded pursuant to Chapter 7 (commencing with Section 56700) of Part 30.

SEC. 9. Section 56730.5 of the Education Code is repealed.

SEC. 10. Section 56730.5 is added to the Education Code, to read:

56730.5. (a) For the 1985–86 fiscal year, the Superintendent of Public Instruction shall adopt and disseminate to all local education agencies, program cost accounting procedures that meet all of the following conditions:

(1) The procedures shall require all local education agencies to use the same methods of allocating direct support costs to specific programs.

(2) The methodology used to allocate direct support costs shall be readily supported by documentation or be the result of standards prescribed by the cost accounting procedures.

(3) For each category of support costs, a single allocation method shall be employed unless documentation as prescribed by the accounting procedures specified by the Superintendent of Public Instruction is available.

(b) Local education agencies shall be required to use the cost accounting procedures provided for under this section during the 1985–86 fiscal year, and to report their 1985–86 fiscal year costs to the State Department of Education using these procedures on forms prescribed by the Superintendent of Public Instruction.

SEC. 11. Section 56760 of the Education Code is amended to read:

56760. The annual budget plan, required by subdivision (e) of Section 56200, shall comply with the following proportions, unless a waiver is granted by the superintendent pursuant to Section 56761:

(a) The district, special education services region, or county office, shall estimate the pupils to be served in the subsequent fiscal year by instructional personnel service. This estimate shall be computed as the ratio of pupils to be served by instructional personnel service to the enrollment of pupils in kindergarten and grades 1 to 12, inclusive, of the districts and county offices participating in the plan.

(1) The ratio of pupils funded by the state by instructional personnel service during the regular school year, including pupils for whom education and services are provided for by contract with nonpublic, nonsectarian schools, to the enrollment in kindergarten and grades 1 to 12, inclusive, shall not exceed 0.10.

(2) The ratio of pupils funded by the state by instructional personnel service to the enrollment in kindergarten and grades 1 to 12, inclusive, receiving a specific instructional service shall not exceed the following:

(A) For special classes and centers, 0.028.

(B) For resource specialist programs, 0.040.

(C) For designated instruction services, 0.042.

(b) The district, special education services region, or county office shall divide the amounts in paragraphs (1), (2), and (3) by the appropriate ratios computed pursuant to paragraph (2) of subdivision (a).

(1) For special classes and centers, 10 pupils.

(2) For resource specialist programs, 24 pupils.

(3) For designated instruction and services, 24 pupils.

(c) The district, special education services region, or county office shall divide the sum of the estimated enrollments on October 1 of the subsequent fiscal year in kindergarten and grades 1 to 12, inclusive, of each district and county office participating in the plan by each of the amounts computed pursuant to paragraphs (1), (2), and (3) of subdivision (b).

(d) The amounts computed pursuant to subdivision (c) shall be the authorized instructional personnel service units the state will fund for the district, special education services region, or county office in the then current year. The allocation of these instructional

personnel service units shall be described in the annual budget plan.

(e) The number of units of instructional services funded pursuant to this article for a local plan shall not exceed for special classes and centers, an average of one teacher and 1.05 aide per special class or center actually operated.

SEC. 12. Article 8 (commencing with Section 56771) is added to Chapter 7 of Part 30 of the Education Code, to read:

Article 8. Low Incidence Funding

56771. (a) Commencing with the 1985–86 fiscal year, and for each fiscal year thereafter, funds to support specialized books, materials, and equipment as required under the individualized education program for each pupil with low incidence disabilities, as defined in Section 56026.5, shall be determined by dividing the total number of pupils with low incidence disabilities in the state, as reported on December 1 of the prior fiscal year, into the annual appropriation provided for this purpose in the Budget Act.

(b) The per-pupil entitlement determined pursuant to subdivision (a) shall be multiplied by the number of pupils with low incidence disabilities in each special education local plan area to determine the total funds available for each local plan.

(c) The superintendent shall apportion the amount determined pursuant to subdivision (b) to the responsible local agency in the special education local plan area for purposes of puchasing and coordinating the use of specialized books, materials, and equipment.

(d) As a condition of receiving these funds, the responsible local agency shall ensure that the appropriate books, materials, and equipment are purchased, that the use of the equipment is coordinated as necessary, and that the books, materials, and equipment are reassigned to local educational agencies within the special education local plan area once the agency that originally received the books, materials, and equipment no longer needs them.

(e) It is the intent of the Legislature that special education local plan areas share unused specialized books, materials, and equipment with neighboring special education local plan areas.

SEC. 13. Section 56830 is added to the Education Code, to read:

56830. (a) The Legislature hereby finds and declares that, since the 1980–81 fiscal year, there have been significant annual deficiencies in special education funding that have created fiscal hardships for many school districts and county offices of education and adversely impacted the quality of services to many individuals with exceptional needs, in abrogation of the objectives set forth in Section 56000.

(b) It is the intent of the Legislature that the sum of at least sixty million dollars ($60,000,000) be appropriated in the Budget Act for the 1986–87 fiscal year, and at least one hundred twenty million dollars ($120,000,000) be appropriated in the Budget Act for the 1987–88 fiscal year, in excess of the appropriations and cost-of-living

adjustments for the 1985–86 fiscal year, to support programs for individuals with exceptional needs.

(1) Priority for appropriation of these funds in the 1986–87 fiscal year shall be accorded to programs that directly improve special education program quality, including, but not limited to, the restoration of instructional aide time in special day classes for nonseverely handicapped students and in the resource specialist program to the level originally required by this part; further expansion of infant services and vocational programs; growth in the low incidence fund; and additional growth in the number of instructional personnel service units.

(2) Based on the cost accounting information produced pursuant to Section 56730.5, consideration shall also be given in the 1987–88 fiscal year to revision of support services ratios, funding of the local general fund contribution computed pursuant to Section 56751 or 56753, and the expansion of low incidence funding to include specialized services, as appropriate, in addition to specialized materials and equipment.

SEC. 14. For the 1985–86 fiscal year, instructional personnel service units that were operated in the 1984–85 fiscal year to provide services to children younger than three years of age shall be excluded from funding computations made pursuant to Section 56728.6 of the Education Code, but shall be included in funding computations made pursuant to Section 56728.8 of the Education Code.

SEC. 14.5. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 15. 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. 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 that essential revisions in the structure of special education funding may be made for application to the Budget Act for the 1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 116

An act to amend Sections 17052.5, 17052.8, 23601, and 23601.5 of the Revenue and Taxation Code, and to amend Item 9100-101-001 of Section 2.00 of the Budget Act of 1985, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor June 28, 1985. Filed with Secretary of State June 28, 1985]

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

SECTION 1. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039), an amount equal to the amount determined in paragraph (2), (3), or (6).

(2) Except as provided in subparagraph (A), the amount of the credit allowed by this section shall be 55 percent of the cost (as defined in subdivision (h)) 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. For any such solar energy system installed on dwellings, including multifamily dwellings, on or after August 1, 1983, and before August 1, 1985, the percentage specified by this paragraph, subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (g) shall be 50 percent, and the credit shall not exceed three thousand dollars ($3,000) per solar energy system as defined in subdivision (h). For any such solar energy system installed on dwellings, excluding multifamily dwellings, on or after August 1, 1985, the percentage specified by this paragraph, subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (g) shall be 10 percent and the credit shall not exceed one thousand dollars ($1,000) per solar energy system as defined in subdivision (h).

(A) Only the owner of the premises (as defined in subdivision (h)) 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 single-family dwellings may elect not to claim the solar energy tax credit for any or all systems installed on new single-family 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 single-family dwelling on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any system installed prior to August 1, 1985, for which the federal credit is allowed, the credit shall be equal to 15 percent of the cost of these systems. If an

owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any other installations made prior to August 1, 1985, which qualify for this credit, the credit shall be as defined in paragraph (2).

(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 single-family dwelling on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the single-family 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 on the basis of the formula in this paragraph, so long as the total amount of the credit claimed does not exceed three thousand dollars ($3,000) per system for installations made on or before July 31, 1985, and one thousand dollars ($1,000) per system for installations made on or after August 1, 1985.

(3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings and those multifamily dwellings on which systems are installed before August 1, 1985, the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in subdivision (h)) of the solar energy system, except for wind energy systems installed on or after January 1, 1986, for which the credit shall be 15 percent of the cost. This paragraph shall apply to solar energy systems installed on multifamily dwellings on or after August 1, 1985.

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 system 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. This paragraph shall not apply to systems installed on or after August 1, 1985.

(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 lease a solar energy system installed on premises in California owned by the taxpayer shall receive a tax credit as provided in subparagraph (A) or (B) provided the lessee can confirm, if necessary, by a written document signed by the lessor that (i) the lessor irrevocably elects not to claim a state tax credit for the solar energy system, and (ii) if the system is installed in a locality served by a municipal solar utility, that the lessor holds a valid permit from the municipal solar utility. Leasing requirements may be established by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(A) Except as provided in subparagraph (B), the credit shall equal 55 percent of the cost (as defined in subdivision (h)) of the purchased portion, and 55 percent of the principal recovery portion (as defined in subdivision (h)) of the lease payments for the term of the lease, not to exceed 10 years. That credit shall not exceed three thousand dollars ($3,000) for each system installed on or before July 31, 1985, and one thousand dollars ($1,000) for each system installed on or after August 1, 1985. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year. For any solar energy system installed on or after August 1, 1983, and on or before July 31, 1985, the percentage specified by this subparagraph shall be 50 percent. For any solar energy system installed on dwellings, exclusive of multifamily dwellings, on or after August 1, 1985, the percentage specified by this subparagraph shall be 10 percent.

(B) In the case of premises other than single-family dwellings and those multifamily dwellings on which systems are installed before August 1, 1985, the credit shall equal 25 percent of the cost (as defined in subdivision (h)) of the purchased portion and 25 percent

of the principal recovery portion (as defined in subdivision (h)) of the lease payments for the term of the lease, not to exceed 10 years. This subparagraph shall apply to systems installed on multifamily dwellings on and after August 1, 1985. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year.

(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.

(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 agency 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.

(d) 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.

(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 the "net tax" may be carried over to the "net tax" in succeeding taxable years, until the credit is used. The credit shall be applied first to the earliest years possible. With respect to solar energy systems installed before January 1, 1985, where the credit allowed exceeds the taxpayer's net tax for the taxable year in which the system was installed, no excess portion of the credit shall be applied against the taxpayer's "net tax" for the 1985 taxable year and no more than one-third of the excess portion of the credit shall be applied against the taxpayer's "net tax" for each of the 1986, 1987, and 1988 taxable years. For the 1989 taxable year and taxable years thereafter, any remaining excess credit may be applied and carried forward without restriction. With regard to wind energy systems purchased and installed on or after August 1, 1985, and on or before December 31, 1985, no more than one-third of the allowable credit under this section shall be applied against the taxpayer's "net tax" for each of the 1985, 1986, and 1987 taxable years. Any credit remaining after the 1987 taxable year shall be applied and carried forward without restriction. However, the full credit allowed under this section for wind energy systems may be applied against the taxpayer's "net tax" for the 1985 taxable year if (i) a written binding contract to purchase the primary components of a system is entered

into by the taxpayer or any other party before August 1, 1985, and (ii) the system is installed on or before December 31, 1985. With regard to wind energy systems installed on or after January 1, 1986, no more than one-third of the allowable credit under this section shall be applied against the taxpayer's "net tax" for each of the taxpayer's 1986, 1987, and 1988 taxable years. Any credit remaining after the 1988 taxable year shall be applied and carried forward without restriction.

(f) 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. These 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.

(g) To the extent that federal energy tax credits are allowed or allowable for costs incurred by a taxpayer for the purchase and installation of 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) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of these costs, notwithstanding the carryover provisions of subdivision (e). For any solar energy system installed on or after August 1, 1983, and on or before July 31, 1985, the percentage specified by this subdivision shall be 50 percent. This subdivision shall not apply to solar energy systems installed on or after August 1, 1985.

(h) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Cost" includes all of the following:

(A) Equipment and installation charges.

(B) 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 this easement.

(C) In the case of a system which is leased, the principal recovery portion of lease payments, which is the cost incurred by the taxpayer in acquiring the solar energy system excluding interest charges and maintenance expenses.

"Cost" does not include interest charges and costs associated with the acquisition of an easement other than a solar easement.

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease or easement granting use of the premises, 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 system is installed for direct use or for purposes of sale of energy, and includes land, easements, buildings or portions thereof, and mobilehomes.

(5) "Dwelling" means a building, or portion thereof, used for residential purposes, and includes each of the following:

(A) "Single-family dwelling" means single-family residences, mobilehomes, and the individual units of condominiums.

(B) "Multifamily dwelling" means cooperatives, apartment buildings, or other similar multiple dwellings.

(6) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic or service water heating.

(ii) Space conditioning.

(iii) Production of electricity.

(iv) Process heat.

(v) Solar mechanical energy.

(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, conversion, 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 or commercial 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 structural elements of a building and is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.

(11) "Municipal solar utility" means a city, county, or municipal utility district, or agency thereof, which sells or leases solar or other energy generating equipment or energy saving devices for residential, commercial, agricultural, or industrial uses or which issues permits to companies engaged in the leasing of this

equipment.

(i) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17250. 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.

(j) 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.

(k) This section shall remain in effect only until January 1, 1987, and on that date is repealed, unless a later enacted statute, which is chaptered before this date, deletes or extends the date. However, any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1987.

(*l*) Notwithstanding the provisions of subdivision (k), a taxpayer or any other party who has undertaken significant construction or expenditures associated with the acquisition or installation of a solar energy system on or before October 31, 1986, shall be eligible for the tax credit authorized by this section in the taxable year in which the system is installed if the installation is completed on or before June 30, 1987.

For purposes of this section, "significant construction or expenditures associated with the acquisition or installation of a solar energy system" requires the completion of at least two of the following:

(i) The placement of at least 50 percent of the funds necessary for project completion in an escrow account. Funds placed in escrow may include funds borrowed pursuant to a construction loan or other debt arrangement.

(ii) The payment of all necessary earnest money required to maintain interconnection priority with a purchasing utility and the receipt of all required building permits or zoning approval, such as a conditional use permit.

(iii) The signing of a binding agreement (such as a lease, easement, or purchase agreement) for the land necessary for the solar energy system and the signing of a binding agreement for major solar energy production equipment purchases necessary for the solar energy system.

SEC. 2. Section 17052.8 of the Revenue and Taxation Code is amended to read:

17052.8. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039, an amount equal to the amount determined in paragraph (2), (3), or (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are

owned by the taxpayer at the time of installation. For energy conservation measures which are installed on or after August 1, 1983, and before August 1, 1985, including measures installed on multifamily dwellings before August 1, 1985, the percentage specified in the preceding sentence shall be 35 percent, and the credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. For energy conservation measures which are installed on or after August 1, 1985, excluding measures installed on multifamily dwellings on or after August 1, 1985, the percentage specified in the preceding sentence shall be 10 percent, and the credit shall not exceed seven hundred fifty dollars ($750) for each premises. The owner of the premises on which the energy conservation measures are installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new single-family dwellings may elect not to claim the energy conservation tax credit for any or all energy conservation measures installed on new single-family dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new single-family dwelling on which the measures are 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.

The energy conservation tax credit shall be claimed in the state income tax return for the taxable year in which the energy conservation measures were installed. However, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new single-family dwelling on which the energy conservation measures are 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 single-family dwelling.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that tax year.

(3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings and those multifamily dwellings on which measures are installed before August 1, 1985, the amount of the credit allowed by this section which is applicable to installations of measures made prior to January 1, 1986 shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measures. With regard to premises in California which are owned by the taxpayer, other than single-family dwellings, the amount of the credit allowed by this section which is applicable to installations made on or after January 1, 1986, shall be 20 percent of the cost, as defined in paragraph (7) of the energy conservation measures.

(4) If energy conservation measures serve two or more dwelling units, 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 energy conservation measures by the number of dwelling units served by the energy conservation measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost. This paragraph shall not apply to energy conservation measures installed on or after August 1, 1985.

(5) Taxpayers who partially own and partially lease on premises in California which are owned by the taxpayer energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7)) of the purchased portion and 40 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 energy conservation tax credit terminates, whichever occurs first. For energy conservation measures which are installed on dwellings, including multifamily dwellings, on or after August 1, 1983, and on or before July 31, 1985, the percentage specified in the preceding sentence shall be 35 percent and the credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. For energy conservation measures which are installed on dwellings, excluding multifamily dwellings, on or after August 1, 1985, the percentage specified in the preceding sentence shall be 10 percent, and the credit shall not exceed seven hundred fifty dollars ($750) for each premises. In any one year, the tax credit shall apply only to the principal recovery portion of the lease payments made during that year and to amounts expended on the purchased portion of the measure (including installation charges) during that year.

(B) In the case of premises, other than single-family dwellings and those multifamily dwellings on which measures are installed before August 1, 1985, the credit provided by this paragraph for installation of measures made before January 1, 1986, 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 energy conservation tax credit terminates, whichever occurs first. In the case of premises, other than single-family dwellings, the credit provided by this paragraph for installations of measures made on or after January 1, 1986, shall equal 20 percent of the cost (as defined in paragraph (7)) of the purchased portion and 20 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payment for the first three years of operation or until the credit terminates, whichever occurs first. In any one year, the tax credit shall apply only to the principal recovery portion of the

lease payments made during that year and to amounts expended on the purchased portion of the measure (including installation charges) during that year.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purpose of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are 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 energy conservation measures, but does not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any energy conservation measure for which a credit is allowed shall be reduced by the amount of the credit. 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 energy conservation measures are installed, each owner shall be eligible to receive the energy conservation tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the energy conservation 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) 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, provided that no excess portion of the allowable credit available with respect to measures installed before January 1, 1985, shall be applied against the taxpayer's "net tax" for the 1985 taxable year and no more than one-third of the allowable excess portion of the credit shall be applied against the taxpayer's "net tax" for each of the taxpayer's 1986, 1987, and 1988 taxable years. For the 1989 taxable year and taxable years thereafter, any unused portion of the credit shall be applied and carried forward without restriction.

(e) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy

Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(f) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed either 40 percent of the cost for measures installed on or before July 31, 1983, or 35 percent of the costs for measures installed on or after August 1, 1983, and on or before July 31, 1985, notwithstanding the carryover provisions of subdivision (e). This paragraph shall not apply to measures installed on or after August 1, 1985.

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent the credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (3) of subdivision (a), for measures installed prior to August 1, 1985, shall be reduced by the amount of the federal credit. This paragraph shall not apply to measures installed on or after August 1, 1985.

(g) For purposes 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 land, buildings, or portions thereof, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes each of the following:

(A) "Single-family dwelling" means single-family residences, mobilehomes, and individual units of condominiums.

(B) "Multifamily dwelling" means cooperatives, apartment buildings, or other similar multiple dwellings.

(5) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified

pursuant to subdivision (f):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Wall insulation.

(H) Floor insulation in premises with electrical resistance heating.

(I) Ventilation cooling fans, attic ventilators, and economizer systems.

(J) Heat pumps and water heating heat pumps (including those which use air, water, or earth as a source or sink of heat) which replace electric resistance heaters or are used in conjunction with a solar energy system.

(K) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(L) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of the operational California plan approved in 1983 pursuant to Section 456.204 of Title 10 of the Code of Federal Regulations and maintained under the authority of this section until December 31, 1985, or an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling.

(iv) Load management devices to reduce the direct or indirect

use of electricity through interruption, storage or load limiting.

(v) Floor insulation except as specified in subparagraph (H).

(M) For existing dwellings where there is no operational Residential Conservation Service (RCS) Plan certified in accordance with this section or in regions where such a plan does not provide energy audits, and for premises other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling, and glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(v) Floor insulation, except as specified in subparagraph (H).

(N) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Evaporative coolers.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Floor insulation.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), (F), and (K) installed in any premises shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1986.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), (J), (L), (M), and (N) installed on single-family dwellings shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1985. State agencies shall ensure that taxpayers may qualify for a tax credit under the provisions of subparagraph (L) until the termination date specified in this paragraph.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), (J), and (M) installed on premises, other than single-family dwellings, shall be ineligible as energy

conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1986.

(6) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(7) "Operational Residential Conservation Service Plan" means the operational California plan approved in 1983 pursuant to Section 456.204 of Title 10 of the Code of Federal Regulations and maintained under the authority of this section until December 31, 1985, or a Residential Conservation Service (RCS) Plan, developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), and which provides energy audits for measures identified in this section in accordance with the requirements of such an RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(h) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17253. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(i) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was installed or for any prior taxable year.

(j) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(k) (1) Except as provided in paragraph (2) of this subdivision, the tax credit provided by this section shall not apply to energy conservation measures required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (K) of paragraph (5) of subdivision (g).

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 that date, deletes or extends that date.

SEC. 3. 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 (A), the amount of the credit allowed by this section shall be 55 percent of the cost (as defined in subdivision (f)) 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. For any such solar energy system installed on dwellings, including multifamily dwellings, on or after August 1, 1983, and before August 1, 1985, the percentage specified by this paragraph, subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (e) shall be 50 percent, and the credit shall not exceed three thousand dollars ($3,000) per solar energy system as defined in subdivision (f). For any such solar energy system installed on single-family dwellings, on or after August 1, 1985, the percentage specified by this paragraph, subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (e) shall be 10 percent, and the credit shall not exceed one thousand dollars ($1,000) per solar energy system as defined in subdivision (f).

(A) Only the owner of the premises (as defined in subdivision (f)) 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 single-family dwellings may elect not to claim the solar energy tax credit for any or all systems installed on new single-family 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 single-family dwelling on which the system is installed may claim the credit provided that the purchaser can confirm the election if necessary, by a written document signed by the owner-builder or owner-developer.

If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any system installed prior to August 1, 1985, for which the federal credit is allowed, the credit shall be equal to 15 percent of the cost of these systems. If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any other installations made prior to August 1, 1985, which qualify for this credit, the credit shall be as defined in paragraph (2).

(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 single-family dwelling on which the system is installed may claim the credit for the year during which the purchaser's escrow closed or the year during which the purchaser acquired legal title to the single-family 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 does not exceed three thousand dollars ($3,000) per system for installations made on or before July 31, 1985, and one thousand dollars ($1,000) per system for installations made on or after August 1, 1985.

(3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings and those multifamily dwellings on which systems are installed before August 1, 1985, the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in subdivision (f)) of the solar energy system, except for wind energy systems installed on or after January 1, 1986, for which the credit shall be 15 percent of the cost. This paragraph shall apply to solar energy systems installed on multifamily dwellings on or after August 1, 1985.

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 system 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. This paragraph shall not apply to systems installed on or after August 1, 1985.

(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 lease a solar energy system installed on premises in California owned by the taxpayer shall receive a tax credit as provided in subparagraph (A) or (B) provided that the lessee can confirm, if necessary, by a written document signed by the lessor that (i) the lessor irrevocably elects not to claim a state tax credit for the solar energy system, and (ii) if the system is installed in a locality served by a municipal solar utility, that the lessor holds a valid permit from the municipal solar utility. Leasing requirements may be established by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(A) Except as provided in subparagraph (B), the credit shall equal 55 percent of the cost (as defined in subdivision (f)) of the purchased portion, and 55 percent of the principal recovery portion (as defined in subdivision (f)) of the lease payments for the term of the lease, not to exceed 10 years. That credit shall not exceed three thousand dollars ($3,000) for each system installed on or before July 31, 1985, and one thousand dollars ($1,000) for each system installed on or after August 1, 1985. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchases portion of the solar energy system (including installation charges) during that year. For any solar energy system installed on or after August 1, 1983, and on or before July 31, 1985, the percentage specified by this subparagraph shall be 50 percent. For any solar energy system installed on single-family dwellings on or after August 1, 1985, the percentage specified by this subparagraph shall be 10 percent.

(B) In the case of premises other than single-family dwellings and those multifamily dwellings on which systems are installed before August 1, 1985, the credit shall equal 25 percent of the cost (as defined in subdivision (f)) of the purchased portion and 25 percent of the principal recovery portion (as defined in subdivision (f)) of the lease payments for the term of the lease, not to exceed 10 years. This subparagraph shall apply to systems installed on multifamily dwellings on or after August 1, 1985. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year.

(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 agency 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 grant provided by a utility or public agency 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 the credit is used. The credit shall be applied first to the earliest years possible. With respect to solar energy systems installed before January 1, 1985, where the credit allowed exceeds the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year in which the system was installed, no excess portion of the credit shall be applied against the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the 1985 income year and no more than one-third of the excess portion of the credit shall be applied against the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for each of the 1986, 1987, and 1988 income years. For the 1989 income year and income years thereafter, any remaining excess credit may be applied and carried forward without restriction. With regard to wind energy systems purchased and installed on or after August 1, 1985, and on or before December 31, 1985, no more than one-third of the allowable credit under this section shall be applied against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for each of the 1985, 1986, and 1987 income years. Any credit remaining after the 1987 taxable year shall be applied and carried forward without restriction. However, the full credit allowed under this section for wind energy systems may be applied against the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the 1985 income year if (i) a written binding contract to purchase the primary components of a system is entered into by the taxpayer or any other party before August 1, 1985, and (ii) the system is installed on or before December 31, 1985. With regard to wind energy systems installed on or after January 1, 1986, no more than one-third of the allowable credit under this section shall be applied against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for each of the 1986, 1987, and 1988 income years. Any credit remaining after the 1988 income year may be applied and carried forward without restriction.

(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. These 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 or lease 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). For any solar energy system installed on or after August 1, 1983, and before August 1, 1985, the percentage specified by this subdivision shall be 50 percent. This subdivision shall not apply to solar energy systems installed on or after August 1, 1985.

(f) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Cost" includes equipment and installation charges, but shall exclude interest charges. In the case of a system which is leased, "cost" means the principal recovery portion of lease payments which is the cost incurred by the taxpayer in acquiring the solar energy system, but excluding interest charges and maintenance expenses.

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease or easement granting use of the premises, 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 system is installed for direct use or for purposes of sale of energy, and includes land, easements, buildings or portions thereof, and mobilehomes.

(5) "Dwelling" means a building, or portion thereof, used for residential purposes, and includes each of the following:

(A) "Single-family dwelling" means single-family residences, mobilehomes, and the individual units of condominiums.

(B) "Multifamily dwelling" means cooperatives, apartment buildings, or other similar multiple dwellings.

(6) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic or service water heating.

(ii) Space conditioning.

(iii) Production of electricity.

(iv) Process heat.

(v) Solar mechanical energy.

(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, conversion, 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 or commercial 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 structural elements of a building and is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.

(11) "Municipal solar utility" means a city, county, or municipal utility district, or agency thereof, which sells or leases solar or other energy generating equipment or energy saving devices for residential, commercial, agricultural, or industrial uses, or which issues permits to companies engaged in the leasing of this equipment.

(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) This section shall remain in effect only until January 1, 1987, and on that date is repealed, unless a later enacted statute, which is chaptered before this date, deletes or extends the date. However, any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1987.

(j) Notwithstanding the provisions of subdivision (i), a taxpayer or any other party who has undertaken significant construction or

expenditures associated with the acquisition or installation of a solar energy system on or before October 31, 1986, shall be eligible for the tax credit authorized by this section in the income year in which the system is installed if the installation is completed on or before June 30, 1987.

For purposes of this section, "significant construction or expenditures associated with the acquisition or installation of a solar energy system" requires the completion of at least two of the following:

(i) The placement of at least 50 percent of the funds necessary for project completion in an escrow account. Funds placed in escrow may include funds borrowed pursuant to a construction loan or other debt arrangement.

(ii) The payment of all necessary earnest money required to maintain interconnection priority with a purchasing utility and the receipt of all required building permits or zoning approval, such as a conditional use permit.

(iii) The signing of a binding agreement (such as a lease, easement, or purchase agreement) for the land necessary for the solar energy system and the signing of a binding agreement for major energy production equipment purchases necessary for the solar energy system.

SEC. 4. Section 23601.5 of the Revenue and Taxation Code is amended to read:

23601.5. (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 (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. For energy conservation measures which are installed on or after August 1, 1983, and before August 1, 1985, including measures installed on multifamily dwelling units before August 1, 1985, the percentage specified in the preceding sentence shall be 35 percent (in lieu of 40 percent) and the credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. For energy conservation measures installed on or after August 1, 1985, excluding measures installed on multifamily dwellings on or after August 1, 1985, the percentage specified in the preceding sentence shall be 10 percent, and the credit shall not exceed seven hundred fifty dollars ($750) for each premises. The owner of the premises on which the energy conservation measures are installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new single-family dwellings may elect not to claim the energy conservation tax credit for any or all measures installed on new single-family dwellings. If an owner-builder or owner-developer

irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new single-family dwelling on which the measures are 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.

The energy conservation tax credit shall be claimed in the state return for the income year in which the energy conservation measures were installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new single-family dwelling on which the measures are 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 new single-family dwelling.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the year in which the energy conservation measures were installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that year.

(3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings and those multifamily dwellings on which measures are installed before August 1, 1985, the amount of the credit allowed by this section which is applicable to installations of measures made prior to January 1, 1986, shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measure. With regard to premises in California which are owned by the taxpayer, other than single-family dwellings, the amount of the credit allowed by this section which is applicable to installations made on or after January 1, 1986, shall be 20 percent of the cost (as defined in paragraph (7)) of the energy conservation measure.

(4) If energy conservation measures serve two or more dwelling units, 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 energy conservation measures by the number of dwelling units served by the measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost. This paragraph shall not apply to energy conservation measures installed on or after August 1, 1985.

(5) Taxpayers who partially own and partially lease on premises in California which are owned by the taxpayer energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7) of the purchased portion and 40 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 energy

conservation tax credit terminates, whichever occurs first. For energy conservation measures which are installed on dwellings, including multifamily dwellings, on or after August 1, 1983, and on or before July 31, 1985, the percentage specified in the preceding sentence shall be 35 percent and the credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. For energy conservation measures which are installed on dwellings, excluding multifamily dwellings, on or after August 1, 1985, the percentage specified in the preceding sentence shall be 10 percent and the credit shall not exceed seven hundred fifty dollars ($750) for each premises. In any one year, the tax credit shall apply only to the principal recovery portion of the lease payments made during that year and to amounts expended on the purchased portion of the measure (including installation charges) during that year.

(B) In the case of premises, other than single-family dwellings and those multifamily dwellings on which measures are installed before August 1, 1985, the credit provided by this paragraph for installation of measures made before January 1, 1986, 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 energy conservation tax credit terminates, whichever occurs first. In the case of premises, other than single-family dwellings, the credit provided by this paragraph for installations of measures made on or after January 1, 1986, shall equal 20 percent of the cost (as defined in paragraph (7)) of the purchased portion and 20 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 credit terminates, whichever occurs first. In any one year, the tax credit shall apply only to the principal recovery portion of the lease payments made during that year and to amounts expended on the purchased portion of the measure (including installation charges) during that year.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purpose of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are 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 energy conservation measures 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. The basis adjustment shall be made for the income year for which the credit is allowed.

In the case of a partnership, the energy conservation 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, provided that no excess portion of the allowable credit available with respect to measures installed before January 1, 1985, is applied against the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the 1985 income year and no more than one-third of the excess portion of the credit is applied against the taxpayer's taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for each of the taxpayer's 1986, 1987, and 1988 income years. For the 1989 income year and income years thereafter, any unused portion of credit shall be applied and carried forward without restriction.

(d) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(e) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed either 40 percent of the costs for measures installed on or before July 31, 1983, or 35 percent of the costs for measures installed on or after August 1, 1983, and on or before July 31, 1985, notwithstanding the carryover provisions of subdivision (c). This paragraph shall not apply to measures installed on or after August 1, 1985.

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent the credit

is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (3) of subdivision (a) for measures installed prior to August 1, 1985, shall be reduced by the amount of such federal credit. This paragraph shall not apply to measures installed on or after August 1, 1985.

(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 land, buildings or portions thereof, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes each of the following:

(A) "Single-family dwelling" means single-family residences, mobilehomes, and individual units of condominiums.

(B) "Multifamily dwelling" means cooperatives, apartment buildings, or other similar multiple dwellings.

(5) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (d):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Wall insulation.

(H) Floor insulation in premises with electrical resistance heating.

(I) Ventilation cooling fans; attic ventilators, and economizer systems.

(J) Heat pumps and water heating heat pumps (including those

which use air, water, or earth as a source or sink of heat) which replace electric resistance heaters or are used in conjunction with a solar energy system.

(K) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(L) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of the operational California plan approved in 1983 pursuant to Section 456.024 of Title 10 of the Code of Federal Regulations and maintained under the authority of this section until December 31, 1985, or an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the opening of heating and cooling systems which achieve increased efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling.

(iv) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(v) Floor insulation, except as specified in subparagraph (H).

(M) For existing dwellings where there is no operational Residential Conservation Service (RCS) Plan certified in accordance with this section or in regions where such a plan does not provide energy audits, and for premises other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed window and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes which substantially reduce the energy needed for space heating and cooling, and glazing material (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Load management devices to reduce the direct or indirect

use of electricity through interruption, storage or load limiting.

(v) Floor insulation, except as specified in subparagraph (H).

(N) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Evaporative coolers.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Floor insulation.

Energy conservation measures in the generic categories of subparagraph (A), (B), (C), (D), (E), (F), and (K) installed in any premises shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1986.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), (J), (L), (M), and (N) installed on single-family dwellings shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1985. State agencies shall ensure that taxpayers may qualify for a tax credit under the provisions of subparagraph (L) until the termination date specified in this paragraph.

Energy conservation measures in the generic categories of subparagraphs (G), (H), (I), (J), and (M) installed on premises, other than single-family dwellings, shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1986.

(6) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(7) "Operational Residential Conservation Service Plan" means the operational California plan approved in 1983 pursuant to Section 456.024 of Title 10 of the Code of Federal Regulations and maintained under the authority of this section until December 31, 1985, or a Residential Conservation Service (RCS) Plan, developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), and which provides energy audits for measures identified in this section in accordance with the requirements of such an RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National

Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 24349.7. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(h) No tax credit shall be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the income year in which the energy conservation measure was installed or any prior income year.

(i) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(j) (1) Except as provided in paragraph (2) of this subdivision, the energy credit provided by this section shall not apply to any energy conservation measure required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (K) of paragraph (5) of subdivision (f).

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 that date, deletes or extends that date.

SEC. 5. Item 9100-101-001 of Section 2.00 of the Budget Act of 1985, as enacted by Senate Bill 150 of the Regular Session of 1985–86, is amended to read:

9100-101-001—For local assistance, Tax Relief		851,532,000
Schedule:		
(a) 10-Senior Citizens' Property Tax Assistance	7,425,000	
(b) 20-Senior Citizens' Property Tax Deferral Program	8,576,000	
(c) 30-Senior Citizen Renters' Tax Assistance	31,429,000	
(d) 50-Homeowners' Property Tax Relief	334,500,000	
(e) 60-Subvention for Open Space	14,100,000	
(f) 80-Renters' Tax Relief	455,400,000	
(g) 90-Substandard Housing	102,000	
Provisions:		
1. Schedule (a) is for property tax assistance to homeowner claimants in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5		

(commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

Any unexpended balance in Schedule (a) may be used to make payments to senior citizen renter claimants under Schedule (c).

2. Schedule (b) is for property tax postponement and assistance to claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), Division 2 of the Revenue and Taxation Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.
3. Schedule (c) is for property tax assistance to renter claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

Any unexpended balance in Schedule (c) may be used to make payments to senior citizen homeowner claimants under Schedule (a).

4. Schedule (d) is for reimbursement to local taxing authorities for revenue lost by reason of the homeowners' property tax exemption granted pursuant to subdivision (k) of Section 3 of Article XIII of the Constitution, Controller. The appropriation made by this schedule shall be in lieu of the appropriation required pursuant to Section 25 of Article XIII of the Constitution and the appropriation for the same purposes contained in Section 16120 of the Government Code.
5. Schedule (e) is for providing reimbursement to local taxing authorities for revenue lost by reason of the assessment of open-space lands under Sections 423, 423.3, and 423.5 of the Revenue and Taxation Code, and in accordance with the provisions of Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 or 16140 of the Government Code.

6. Schedule (f) is for transfer by the State Controller, as needed, to the Tax Relief and Refund Account, General Fund, for the purpose of providing credits and refunds to renters as required by Section 17053.5 of the Revenue and Taxation Code, Franchise Tax Board.
7. Schedule (g) is for transfer by the State Controller to the Local Agency Code Enforcement and Rehabilitation Fund, for the purpose of providing funds to defray costs incurred in the enforcement of local housing code provisions and to fund housing rehabilitation programs for persons and families of low and moderate income as defined in Section 50093 of the Health and Safety Code, to be allocated to local agencies prorated on the basis of their share of disallowed deductions which resulted from the agencies' proceedings.

This amount is in lieu of any statutory requirements.

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 117

An act to amend, repeal, and add Section 25208.4 of the Health and Safety Code, relating to hazardous wastes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 1985. Filed with Secretary of State June 28, 1985.]

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

SECTION 1. Section 25208.4 of the Health and Safety Code is amended to read:

25208.4. (a) Notwithstanding any other provision of law, unless granted an exemption pursuant to subdivision (b) or Section 25208.13, a person shall not discharge liquid hazardous wastes or hazardous wastes containing free liquids into a surface impoundment after June 30, 1988, if the surface impoundment, or the land immediately beneath it, contains hazardous wastes and is within one-half mile upgradient from a potential source of drinking water.

A person who owns a surface impoundment which meets the conditions specified in this subdivision shall close the impoundment.

(b) A person may apply to a regional board to exempt a surface impoundment from subdivision (a) pursuant to this subdivision. A

person shall submit the application for exemption to the regional board on or before January 1, 1986.

(1) A regional board shall either grant or deny an exemption from subdivision (a) on or before December 31, 1987. A regional board may grant an exemption from subdivision (a) only if the regional board makes both of the following findings:

(A) No extremely hazardous wastes are currently being discharged into the surface impoundment, and either one of the following applies:

(i) The records of the person applying for an exemption indicate that no extremely hazardous wastes have been discharged into the surface impoundment.

(ii) Extremely hazardous wastes are not present in the surface impoundment, in the vadose zone, or in the waters of the state.

(B) The surface impoundment is in compliance with Section 25208.5, and a report has been filed pursuant to Section 25208.8.

(2) An exemption granted pursuant to this subdivision shall not be effective for more than five years. Applications for an exemption or a renewal of an exemption shall be accompanied by the fee specified in the fee schedule adopted by the state board pursuant to Section 25208.3. A regional board shall not renew the exemption unless the regional board makes both of the following findings:

(A) No hazardous waste constituents have migrated from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute the vadose zone, or pollute, or threaten to pollute, the waters of the state.

(B) Continuing the operation of the surface impoundment does not pose a significant potential of hazardous waste constituents migrating from the surface impoundment into the vadose zone or the waters of the state, thus polluting the vadose zone, or polluting, or threatening to pollute, these waters.

(3) Except as provided in paragraph (4), the regional board shall revoke an exemption granted pursuant to this subdivision and require the person granted the exemption to comply with subdivision (a) if the regional board determines that the surface impoundment granted the exemption is polluting, or threatening to pollute, the waters of the state or that hazardous waste constituents are migrating from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute or threaten to pollute these waters. The regional board shall also issue a cease and desist order pursuant to Section 13301 of the Water Code and require appropriate removal and remedial actions by the person granted the exemption, or the responsible parties, to clean up any pollution which may have occurred.

(4) Notwithstanding paragraph (3), a regional board may continue in effect an exemption granted pursuant to this subdivision if the regional board orders the person to double line the surface impoundment, equip the surface impoundment with a leachate collection system, and conduct groundwater monitoring, as specified

in subdivision (a) of Section 25208.5, within one year after granting this continuance, and if the regional board makes all of the following findings:

(A) The surface impoundment granted the exemption has hazardous waste constituents, in concentrations which threaten to pollute the waters of the state, which are migrating from the surface impoundment into the vadose zone, but no hazardous waste constituents have migrated into the waters of the state.

(B) Installing double liners and a leachate collection system and conducting groundwater monitoring, as specified in subdivision (a) of Section 25208.5, will abate the threat to the waters of the state before any hazardous waste constituents migrate to the waters.

(C) All removal and remedial actions necessary to abate the threat specified in subparagraph (A) can be completed prior to the migration of any hazardous waste constituents into the waters of the state.

(5) Notwithstanding paragraph (4), the regional board shall revoke the exemption continued pursuant to paragraph (4) and shall require the person granted this continuance to comply with subdivision (a) if the regional board determines either of the following:

(A) The surface impoundment is polluting the waters of the state or that hazardous waste constituents are migrating from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute, or threaten to pollute, these waters.

(B) The person does not comply with the board's order or conduct the necessary removal or remedial actions, as required by paragraph (4).

The regional board shall also issue a cease and desist order pursuant to Section 13301 of the Water Code and require appropriate removal and remedial actions by the person granted the exemption, or the responsible parties, to clean up any pollution which may have occurred, upon making either of these determinations.

(c) Notwithstanding any other provision of law, a person shall not do either of the following, unless the person is granted an exemption pursuant to Section 25208.13, or unless the person is granted a variance for the discharge of a restricted hazardous waste pursuant to subdivision (d) by the department:

(1) On or after January 1, 1985, discharge restricted hazardous wastes containing cyanide wastes or polychlorinated biphenyls (PCBs), in the concentrations specified in paragraphs (1) and (4) of subdivision (a) of Section 25122.7, into a surface impoundment.

(2) On or after January 1, 1986, discharge any restricted hazardous waste, not otherwise specified in paragraph (1), into a surface impoundment.

(d) The department may grant a variance, in accordance with Section 66930 of Title 22 of the California Administrative Code, except as specified in paragraph (2) of this subdivision, from the requirements of paragraph (2) of subdivision (c) for restricted

hazardous wastes which do not contain cyanide wastes or polychlorinated biphenyls (PCBs), in the concentrations specified in paragraphs (1) and (4) of subdivision (a) of Section 25122.7, if the department determines the discharge is in compliance with the provisions of this article and that sufficient recycling or treatment capacity for a particular restricted hazardous waste stream or category of restricted hazardous waste is not available in this state.

(1) No variance shall be granted by the department unless the application is accompanied by a demonstration, satisfactory to the department, that the surface impoundment will be equipped, on or before January 1, 1986, and before the issuance of the variance, with double liners, a leachate collection system, and a groundwater monitoring program, as specified in subdivision (a) of Section 25208.5, and that the applicant has done one of the following:

(A) Entered into a binding commitment to, and has applied for all required permits to, construct, or to otherwise provide for, alternative treatment or recycling facilities.

(B) If the variance is for an onsite facility, the applicant is making changes in the operations of the onsite facility which will eliminate the discharge of the restricted hazardous waste stream or category of restricted hazardous waste into the surface impoundment.

(2) All applications for a variance pursuant to this subdivision shall be filed with the department on or before September 30, 1985.

(3) Any person applying for a variance shall, on or before January 1, 1986, do one of the following:

(A) Submit a hydrogeological assessment report to the regional board, as set forth in Section 25208.8.

(B) If the surface impoundment meets the conditions specified in subdivision (a), the applicant may apply for an exemption pursuant to subdivision (b).

(4) Notwithstanding any other provision of law, the regional board shall give the highest priority to acting upon any exemption application or hydrogeological assessment report filed pursuant to this subdivision. The regional board shall review the exemption application or the hydrogeological assessment report and shall approve or disapprove the report or exemption application within nine months after receiving the report or exemption application.

(5) Any person applying for a variance for a discharge pursuant to this subdivision shall make available to the department and to the regional board any records concerning the discharge which are relevant to the findings required to be made by the department or regional board pursuant to this subdivision.

(6) Notwithstanding subdivision (d) of Section 66930 of Title 22 of the California Administrative Code, a variance issued pursuant to this subdivison shall become effective only when the variance is issued by the department, and the variance shall not be deemed issued if the department fails to issue a decision approving or denying the variance petition within the time specified in that subdivision (d). The department may grant a variance only for a limited period

of time, but for a period of no longer than one year. The variance shall include a date by which the generator or disposal facility receiving a variance shall construct recycling or treatment facilities or cease the discharge into the surface impoundment. The variance shall specify the date when the restricted hazardous waste stream or category of restricted hazardous waste shall be subject to the requirements specified in subdivision (c). The department may annually extend the variance of an individual applicant for an additional time, but not more than twice, if the applicant demonstrates to the department, and the department makes a written finding that, the applicant is making reasonable progress towards the reduction and final elimination of the discharge into the surface impoundment.

(7) The department shall, within 30 days after granting a variance pursuant to this subdivision, submit a copy of the variance to the appropriate regional board, to each member of the Legislature in whose district is located the discharge to be exempted by the variance, to the Senate Committee on Toxics and Public Safety Management, and to the Assembly Committee on Environmental Safety and Toxic Materials.

(8) All variances granted pursuant to this subdivison are subject to review at the discretion of the department and may be revoked at any time. The department shall revoke a variance granted pursuant to this subdivision if either the regional board or the department determines that the discharge of restricted hazardous wastes is polluting, or threatens to pollute, the waters of the state or that hazardous waste constituents are migrating from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute or threaten to pollute these waters.

(e) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

SEC. 2. Section 25208.4 is added to the Health and Safety Code, to read:

25208.4. (a) Notwithstanding any other provision of law, unless the person was granted an exemption pursuant to subdivision (b) on or before December 31, 1987, pursuant to Section 25208.4, as it read on December 31, 1988, or pursuant to Section 25208.13, a person shall not discharge liquid hazardous wastes or hazardous wastes containing free liquids into a surface impoundment, if the surface impoundment, or the land immediately beneath it, contains hazardous wastes and is within one-half mile upgradient from a potential source of drinking water.

A person who owns a surface impoundment which meets the conditions specified in this subdivision shall close the impoundment.

(b) A person may apply to a regional board to exempt a surface impoundment from subdivision (a) pursuant to this subdivision. A person shall submit the application for exemption to the regional board on or before January 1, 1986.

(1) A regional board shall either grant or deny an exemption from subdivision (a) on or before December 31, 1987. A regional board may grant an exemption from subdivision (a) only if the regional board makes both of the following findings:

(A) No extremely hazardous wastes are currently being discharged into the surface impoundment, and either one of the following applies:

(i) The records of the person applying for an exemption indicate that no extremely hazardous wastes have been discharged into the surface impoundment.

(ii) Extremely hazardous wastes are not present in the surface impoundment, in the vadose zone, or in the waters of the state.

(B) The surface impoundment is in compliance with Section 25208.5, and a report has been filed pursuant to Section 25208.8.

(2) An exemption granted pursuant to this subdivision shall not be effective for more than five years. Applications for an exemption or a renewal of an exemption shall be accompanied by the fee specified in the fee schedule adopted by the state board pursuant to Section 25208.3. A regional board shall not renew the exemption unless the regional board makes both of the following findings:

(A) No hazardous waste constituents have migrated from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute the vadose zone, or pollute, or threaten to pollute, the waters of the state.

(B) Continuing the operation of the surface impoundment does not pose a significant potential of hazardous waste constituents migrating from the surface impoundment into the vadose zone or the waters of the state, thus polluting the vadose zone, or polluting, or threatening to pollute, these waters.

(3) Except as provided in paragraph (4), the regional board shall revoke an exemption granted pursuant to this subdivision and require the person granted the exemption to comply with subdivision (a) if the regional board determines that the surface impoundment granted the exemption is polluting, or threatening to pollute, the waters of the state or that hazardous waste constituents are migrating from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute or threaten to pollute these waters. The regional board shall also issue a cease and desist order pursuant to Section 13301 of the Water Code and require appropriate removal and remedial actions by the person granted the exemption, or the responsible parties, to clean up any pollution which may have occurred.

(4) Notwithstanding paragraph (3), a regional board may continue in effect an exemption granted pursuant to this subdivision if the regional board orders the person to double line the surface impoundment, equip the surface impoundment with a leachate collection system, and conduct groundwater monitoring, as specified in subdivision (a) of Section 25208.5, within one year after granting this continuance, and if the regional board makes all of the following

findings:

(A) The surface impoundment granted the exemption has hazardous waste constituents, in concentrations which threaten to pollute the waters of the state, which are migrating from the surface impoundment into the vadose zone, but no hazardous waste constituents have migrated into the waters of the state.

(B) Installing double liners and a leachate collection system and conducting groundwater monitoring, as specified in subdivision (a) of Section 25208.5, will abate the threat to the waters of the state before any hazardous waste constituents migrate to the waters.

(C) All removal and remedial actions necessary to abate the threat specified in subparagraph (A) can be completed prior to the migration of any hazardous waste constituents into the waters of the state.

(5) Notwithstanding paragraph (4), the regional board shall revoke the exemption continued pursuant to paragraph (4) and shall require the person granted this continuance to comply with subdivision (a) if the regional board determines either of the following:

(A) The surface impoundment is polluting the waters of the state or that hazardous waste constituents are migrating from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute, or threaten to pollute, these waters.

(B) The person does not comply with the board's order or conduct the necessary removal or remedial actions, as required by paragraph (4).

The regional board shall also issue a cease and desist order pursuant to Section 13301 of the Water Code and require appropriate removal and remedial actions by the person granted the exemption, or the responsible parties, to clean up any pollution which may have occurred, upon making either of these determinations.

(c) Notwithstanding any other provision of law, a person shall not discharge any restricted hazardous waste into a surface impoundment, unless the person is granted an exemption pursuant to Section 25208.13.

(d) This section shall become operative January 1, 1989.

SEC. 3. The Legislature finds and declares that Chapter 1543 of the Statutes of 1984 was enacted for the purpose of ensuring that existing surface impoundments are made either safe or are closed, so that they do not contaminate the air and waters of the state, and so that the health, property, and resources of the people of the state are protected.

The Legislature therefore expressly finds and declares that Chapter 1543 of the Statutes of 1984 was not intended to reduce or eliminate in any manner previously existing public health, environmental, and safety standards as they relate to discharge of restricted hazardous wastes into existing surface impoundments in the state.

The Legislature further finds and declares that, notwithstanding

Section 12080.8 of the Government Code, amendments made to Section 25208.4 of the Health and Safety Code by this act are not inconsistent with the Governor's Reorganization Plan No. 1 of the 1985–86 Regular Session of the Legislature and shall not be suspended if the reorganization plan takes effect. If the Governor's Reorganization Plan No. 1 of the 1985–86 Regular Session takes effect, the Legislative Counsel, in preparing a bill pursuant to Section 12081 of the Government Code, shall make those changes in the statutes as may be necessary to incorporate the amendments made to Section 25208.4 of the Health and Safety Code by this act and the changes made in that section by the reorganization plan.

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 a safe, uniform, and orderly process to ensure the public health is protected from the discharge of restricted hazardous wastes into pits, ponds and lagoons, and to provide sufficient time for the proper permitting of new treatment and recycling facilities for the disposal of restricted hazardous wastes to land, it is necessary that this act take effect immediately.

CHAPTER 118

An act relating to hazardous substances, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 1985 Filed with Secretary of State June 28, 1985]

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

SECTION 1. Notwithstanding Section 25351 of the Health and Safety Code, the sum of three hundred fifty-four thousand four hundred forty-one dollars and fifty-eight cents ($354,441.58) is hereby appropriated from the reserve account for emergencies in the Hazardous Substance Account, created pursuant to subdivision (a) of Section 25354 of the Health and Safety Code, to the Department of Fish and Game in augmentation of Item 3600-001-200 of the Budget Act of 1984 (Chapter 258 of the Statutes of 1984), to be available under the same terms and conditions as the funds in Item 3600-001-200.

The State Department of Health Services shall pursue recovery, from the responsible party, those costs incurred by the state, including any legal fees, which were spent in response to the hazardous substance release which occurred in the City of Santa Barbara on May 18, 1984, and shall deposit the funds collected in the

Hazardous Substance Account. If the Department of Fish and Game recovers any funds from a responsible party for the hazardous substance release which occurred in the City of Santa Barbara on May 18, 1984, the Department of Fish and Game shall transfer these funds to the State Department of Health Services, for deposit in the Hazardous Substance Account.

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 reimburse the Department of Fish and Game for the cleanup of a hazardous substance release, it is necessary that this act take effect immediately.

CHAPTER 119

An act to amend, add, and repeal Section 11311 of the Welfare and Institutions Code, relating to Aid to Families with Dependent Children, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 1985. Filed with Secretary of State June 28, 1985.]

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

SECTION 1. Section 11311 of the Welfare and Institutions Code is amended to read:

11311. 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 State Department of Social Services. Participants shall be the designated unemployed parent from two-parent families receiving aid under this chapter, and the unemployed parent in the single-parent household. For purposes of participation, only one custodial parent who is legally obligated to support the child, or, in cases where an eligible child has two legal guardians, only one legal guardian shall be required to participate in the program.

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 (including reduction in overtime pay), the filling of established unfilled position vacancies, or infringement

upon promotional opportunities, which would otherwise be available to currently employed regular employees by any actions taken on behalf of a participant in other than an entry-level position, prior to compliance with applicable personnel procedures and collective bargaining agreements. Assignments shall not be made in any bargaining unit where positions are vacant or where employees are on layoff.

(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) (1) 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 the individual is a member, less any amount of child support received by the parent, or by the county on behalf of a child eligible for aid under this chapter divided by the greater of the federal or the applicable minimum wage. This paragraph shall apply to all participants currently assigned to an EWEP project on the effective date of the amendments made to this section during the 1985 portion of the 1985–86 Regular Session of the Legislature.

(2) 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 the individual is a member, less any amount of child support received by the parent, or by the county on behalf of a child eligible for aid under this chapter, divided by the greater of (A) the federal or applicable minimum wage or (B) the wage which would be equivalent to the wage for a position most similar to the assignment. This paragraph shall apply to assignments to any EWEP project site developed after the effective date of the amendments made to this section during the 1985 portion of the 1985–86 Regular Session of the Legislature. After September 1, 1985, this paragraph shall additionally apply to participants newly assigned to EWEP project sites in existence on the effective date of the amendments made to this section during the 1985 portion of the 1985–86 Regular Session of the Legislature.

For purposes of paragraphs (1) and (2), work experience assignments shall not exceed 13 weeks in duration. 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 county shall make every effort to provide transportation expenses in advance of need, and when it is not possible to do so, the county shall reimburse the participant within 14 days from the time that the expense is incurred. To facilitate advance payments of transportation expenses, the department shall seek a federal waiver to hold the county

harmless for reimbursements disallowed because a recipient failed to participate in the program. In the event a federal waiver cannot be obtained, the state and county shall share the cost of the disallowed reimbursements equally.

(g) An assignment shall not be developed in response to, or be associated with, the existence of a strike, lockout, or other bona fide labor dispute, or be in violation of any existing collective bargaining agreement between employees and employers.

(h) An assignment shall not be developed through replacement of a person in a position that has been created by termination or layoff of a person for purposes of this section.

(i) A person shall not be required to accept a work experience assignment, if the assignment would result in the removal of the individual from a training program which utilizes funds made available pursuant to the federal Job Training Partnership Act (P.L. 97-300, 29 U.S.C. 1501, et seq.), or any other recognized training program or an accredited educational institution, if the individual is enrolled in nine or more semester units, or their equivalent, toward the attainment of a degree or a certification. A nonexempt individual who is enrolled in an educational program for nine or more semester units, or their equivalent, shall not be required to participate in the Employment Preparation Program pursuant to Article 3.5 (commencing with Section 11325) until the summer recess or other academic recess which provides sufficient time to complete the Employment Preparation Program without an interruption in the individual's educational program.

(j) If an overpayment occurs, pursuant to Section 11004, an amount equal to the minimum wage multiplied by the number of hours worked in that month in a community work experience position shall be deducted from the overpayment assessed for the month in which that work was performed. This paragraph shall become inoperative unless a federal waiver is secured.

(k) All participants shall receive at the time of orientation a description of the program, including what will be expected of the participant and the consequences of failing to participate, what services will be available, and the resources available to a participant in the event the participant believes that the program imposes undue hardship.

(*l*) The participant shall be allowed to select his or her work experience assignment from a list of project sites provided by the county.

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.

If it appears that a participant is not willing to take part in the program, the county shall provide an opportunity for that person to

establish good cause for lack of participation. Good cause criteria to be utilized, commencing on July 1, 1985, by Work Incentive Demonstration programs and the Employment Preparation Program, provided for pursuant to Article 3.5 (commencing with Section 11325), shall also apply to this section effective January 1, 1986, to the extent that they are consistent with this section.

Good cause shall include all of the following:

(a) Illness or incapacity.

(b) Court-required appearances or temporary incarceration.

(c) Major family crisis.

(d) Breakdown in transportation arrangements with no readily accessible alternative means of transportation.

(e) Inclement weather which prevented the recipient and other persons similarly situated from traveling to or participating in the prescribed activity.

(f) Breakdown in child care arrangements.

(g) Lack of other supportive services necessary for participation.

(h) Refusal to accept major medical services even if the refusal precludes participation in the program.

(i) Other substantial and compelling reasons.

The conciliation procedures provided for under subdivision (b) of Section 5302 of the Unemployment Insurance Code shall apply to this section.

Notwithstanding Section 11308, if a principal wage earner is sanctioned due to failure to meet the requirements of this section, failure to meet these requirements shall not affect the eligibility for aid of any other member of the family unit. This paragraph shall not be operative if it is found to jeopardize federal financial participation for the remaining portions of the program authorized by this section provided that the federal government issues a final order and the state has exhausted all available remedies.

Notwithstanding Section 11308, if a principal wage earner is sanctioned due to failure to meet the requirements of Article 3.5 (commencing with Section 11325), failure to meet these requirements shall not affect the eligibility for aid of any other member of the family unit. This provision shall become inoperative unless a federal waiver is secured. The State Department of Social Services shall seek a waiver from the federal government in order to implement this paragraph.

If at any time during the time the participant or family is ineligible for aid, the participant agrees to participate, the sanctions procedure shall stop, and the participant or family unit shall be considered eligible for the benefits it was entitled to prior to the imposition of sanctions, except that this provision shall not apply if sanctions are imposed against a participant more than once. Retroactive payments shall not be made for the sanction period unless the sanctions were made erroneously. All notice of action letters shall come from the department, and not from the Employment Development Department. This paragraph shall apply to persons sanctioned for

failure to meet the requirements of this section and Article 3.5 (commencing with Section 11325). This paragraph shall become inoperative unless a federal waiver is secured.

From whatever state or federal funds are appropriated to support community work experience programs, funds shall be allocated sufficient to meet the child care needs of eligible participants, including those participants with school age children who are in need of care before or after school hours. No registrant shall be required to participate until a thorough, individual assessment of child care needs is conducted, and appropriate child care arrangements are made. The evaluation of the need for child care shall be conducted jointly between the registrant and the county social worker assigned to the case. The county shall assist the registrant in obtaining suitable child care. Appropriate child care may be arranged by any of the following:

(1) Direct referral to licensed child care homes and facilities.

(2) Referral to a state-funded resource and referral agency.

(3) Independently arranged in-home or out-of-home child care by family members.

The county shall conduct a periodic review of child care arrangements to ensure adequate care and supervision of the children throughout the registrant's participation in the program components. This review shall be conducted at least bimonthly and the results of the review, as well as the results of the initial assessment, shall be thoroughly documented in the registrant's case file.

Approved child care arrangements shall be by direct payment to the child care provider.

A cooperative agencies resources for education program shall be established in San Diego County at a local community college. Where it is appropriate, recipients participating in employment preparation programs or community work experience program may be referred to this cooperative agencies resources for education program.

There shall be an annual report to the Legislature on the San Diego County Work Experience Program including utilization of the Employment Preparation Program and any other components which might be added at a later date. This annual report shall be designed and submitted by the State Department of Social Services in consultation with the Employment Development Department, and the County of San Diego, and shall be submitted to the Joint Legislative Budget Committee for approval by the office of the Legislative Analyst. The office of the Legislative Analyst shall produce the report. The report shall include, but not be limited to, all of the following categories of data:

(1) The number of applicants for, and recipients of, aid under this chapter participating in each component of the program.

(2) The number of participants entering employment from each component.

(3) The average wage of participants entering employment by component.

(4) The types of jobs obtained by participants, by component.

(5) The duration of employment in jobs by component.

(6) The average cost per participant, by component.

(7) The average cost per employed participant, by component.

(8) The number of, and reason for, terminations, by component.

(9) The number and reasons for sanctions, by component.

(10) Prior work history of all participants before they entered the program, including wages and benefits.

(11) Caseload statistics which reflect how many families were on aid at the beginning and end of the fiscal year.

This section shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless either:

(1) Federal financial participation cannot be obtained for recipients of aid under this chapter participating in the program provided for in this section, in which case this section shall remain in effect only until July 1, 1986, and as of that date is repealed.

(2) A later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 11311 is added to the Welfare and Institutions Code, to read:

11311. 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 State Department of Social Services. Participants shall be the designated unemployed parent from two-parent families receiving aid under this chapter, and the unemployed parent in a single-parent household. For purposes of participation, only one custodial parent who is legally obligated to support the child, or, in cases where an eligible child has two legal guardians, only one legal guardian shall be required to participate in the program.

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 (including reduction in overtime pay), the filling of established unfilled position vacancies, or infringement upon promotional opportunities, which would otherwise be available to currently employed regular employees by any actions taken on behalf of a participant in other than an entry-level position, prior to compliance with applicable personnel procedures and collective bargaining agreements. Assignments shall not be made in any bargaining unit where positions are vacant or where employees are

on layoff.

(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) (1) 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 the individual is a member, less any amount of child support received by the parent, or by the county on behalf of a child eligible for aid under this chapter, divided by the greater of the federal or the applicable minimum wage. This paragraph shall apply to all participants currently assigned to an EWEP project on the effective date of this section.

(2) 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 the individual is a member, less any amount of child support received by the parent, or by the county on behalf of a child eligible for aid under this chapter, divided by the greater of (A) the federal or applicable minimum wage or (B) the wage which would be equivalent to the wage for a position most similar to the assignment. This paragraph shall apply to assignments to any EWEP project site developed after the effective date of this section. After September 1, 1985, this paragraph shall additionally apply to participants newly assigned to EWEP project sites in existence on the effective date of this section.

For purposes of paragraphs (1) and (2), work experience assignments shall not exceed 13 weeks in duration. 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 county shall make every effort to provide transportation expenses in advance of need, and when it is not possible to do so, the county shall reimburse the participant within 14 days from the time that the expense is incurred. To facilitate advance payments of transportation expenses, the department shall seek a federal waiver to hold the county harmless for reimbursements disallowed because a recipient failed to participate in the program. In the event a federal waiver cannot be obtained, the state and county shall share the cost of the disallowed reimbursements equally.

(g) An assignment shall not be developed in response to, or be associated with, the existence of a strike, lockout, or other bona fide labor dispute, or be in violation of any existing collective bargaining agreement between employees and employers.

(h) An assignment shall not be developed through replacement of a person in a position that has been created by termination or layoff

of a person for purposes of this section.

(i) A person shall not be required to accept a work experience assignment, if the assignment would result in the removal of the individual from a training program which utilizes funds made available pursuant to the federal Job Training Partnership Act (P.L. 97-300, 29 U.S.C. 1501, et seq.), or any other recognized training program or an accredited educational institution, if the individual is enrolled in nine or more semester units, or their equivalent, toward the attainment of a degree or a certification. A nonexempt individual who is enrolled in an educational program for nine or more semester units, or their equivalent, shall not be required to participate in the Employment Preparation Program pursuant to Article 3.5 (commencing with Section 11325) until the summer recess or other academic recess which provides sufficient time to complete the Employment Preparation Program without an interruption in the individual's educational program.

(j) If an overpayment occurs, pursuant to Section 11004, an amount equal to the minimum wage multiplied by the number of hours worked in that month in a community work experience position shall be deducted from the overpayment assessed for the month in which that work was performed. This paragraph shall become inoperative unless a federal waiver is secured.

(k) All participants shall receive at the time of orientation a description of the program, including what will be expected of the participant and the consequences of failing to participate, what services will be available, and the resources available to a participant in the event the participant believes that the program imposes undue hardship.

(*l*) The participant shall be allowed to select his or her work experience assignment from a list of project sites provided by the county.

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.

If it appears that a participant is not willing to take part in the program, the county shall provide an opportunity for that person to establish good cause for lack of participation. Good cause criteria to be utilized, commencing on July 1, 1985, by Work Incentive Demonstration programs and the Employment Preparation Program, provided for pursuant to Article 3.5 (commencing with Section 11325), shall also apply to this section effective January 1, 1986, to the extent that they are consistent with this section.

Good cause shall include all of the following:

(a) Illness or incapacity.

(b) Court-required appearances or temporary incarceration.

(c) Major family crisis.

(d) Breakdown in transportation arrangements with no readily accessible alternative means of transportation.

(e) Inclement weather which prevented the recipient and other persons similarly situated from traveling to or participating in the prescribed activity.

(f) Breakdown in child care arrangements.

(g) Lack of other supportive services necessary for participation.

(h) Refusal to accept major medical services even if the refusal precludes participation in the program.

(i) Other substantial and compelling reasons.

The conciliation procedures provided for under subdivision (b) of Section 5302 of the Unemployment Insurance Code shall apply to this section.

Notwithstanding Section 11308, if a principal wage earner is sanctioned due to failure to meet the requirements of this section , failure to meet these requirements shall not affect the eligibility for aid of any other member of the family unit. This paragraph shall not be operative if it is found to jeopardize federal financial participation for the remaining portions of the program authorized by this section provided that the federal government issues a final order and the state has exhausted all available remedies.

Notwithstanding Section 11308, if a principal wage earner is sanctioned due to failure to meet the requirements of Article 3.5 (commencing with Section 11325), failure to meet these requirements shall not affect the eligibility for aid of any other member of the family unit. This provision shall become inoperative unless a federal waiver is secured. The State Department of Social Services shall seek a waiver from the federal government in order to implement this paragraph.

If at any time during the time the participant or family is ineligible for aid, the participant agrees to participate, the sanctions procedure shall stop, and the participant or family unit shall be considered eligible for the benefits it was entitled to prior to the imposition of sanctions, except that this provision shall not apply, if sanctions are imposed against a participant more than once. Retroactive payments shall not be made for the sanction period unless the sanctions were made erroneously. All notice of action letters shall come from the department, and not from the Employment Development Department. This paragraph shall apply to persons sanctioned for failure to meet the requirements of this section and Article 3.5 (commencing with Section 11325). This paragraph shall become inoperative unless a federal waiver is secured.

From whatever state or federal funds are appropriated to support community work experience programs, funds shall be allocated sufficient to meet the child care needs of eligible participants, including those participants with school age children who are in need of care before or after school hours. No registrant shall be required to participate until a thorough, individual assessment of child care needs is conducted, and appropriate child care

arrangements are made. The evaluation of the need for child care shall be conducted jointly between the registrant and the county social worker assigned to the case. The county shall assist the registrant in obtaining suitable child care. Appropriate child care may be arranged by any of the following:

(1) Direct referral to licensed child care homes and facilities.

(2) Referral to a state-funded resource and referral agency.

(3) Independently arranged in-home or out-of-home child care by family members.

The county shall conduct a periodic review of child care arrangements to ensure adequate care and supervision of the children throughout the registrant's participation in the program components. This review shall be conducted at least bimonthly and the results of the review, as well as the results of the initial assessment shall be thoroughly documented in the registrant's case file.

Approved child care arrangements shall be by direct payment to the child care provider.

A cooperative agencies resources for education program shall be established in San Diego County at a local community college. Where it is appropriate, recipients participating in employment preparation programs or community work experience program may be referred to this cooperative agencies resources for education program.

There shall be an annual report to the Legislature on the San Diego County Work Experience Program including utilization of the Employment Preparation Program and any other components which might be added at a later date. This annual report shall be designed and submitted by the State Department of Social Services in consultation with the Employment Development Department, and the County of San Diego, and shall be submitted to the Joint Legislative Budget Committee for approval by the office of the Legislative Analyst. The office of the Legislative Analyst shall produce the report. The report shall include, but not be limited to, all of the following categories of data:

(1) The number of applicants for, and recipients of, aid under this chapter participating in each component of the program.

(2) The number of participants entering employment from each component.

(3) The average wage of participants entering employment by component.

(4) The types of jobs obtained by participants, by component.

(5) The duration of employment in jobs by component.

(6) The average cost per participant, by component.

(7) The average cost per employed participant, by component.

(8) The number of, and reason for, terminations, by component.

(9) The number and reasons for sanctions, by component.

(10) Prior work history of all participants before they entered the program, including wages and benefits.

(11) Caseload statistics which reflect how many families were on

aid at the beginning and end of the fiscal year.

This section shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless either:

(1) Federal financial participation cannot be obtained for recipients of aid under this chapter participating in the program provided for in this section, in which case this section shall remain in effect only until July 1, 1986, and as of that date is repealed.

(2) A later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 1 of this act shall become operative only if this act is chaptered on or before July 1, 1985.

Section 2 of this act shall become operative only if this act is chaptered after July 1, 1985.

SEC. 4. In order to implement this act:

(a) There is hereby appropriated, in augmentation of Item 5180-141-001 of the Budget Act of 1985, from the General Fund to the State Department of Social Services, the sum of one hundred seventy-five thousand dollars ($175,000) for county administration.

(b) There is hereby appropriated, in augmentation of Item 5180-141-890 of the Budget Act of 1985, from the Federal Trust Fund, to the State Department of Social Services, the sum of three hundred fifty thousand dollars ($350,000) for county administration.

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 ensure the continued operation of the San Diego County employment program for Aid to Families with Dependent Children program recipients, it is necessary that this act go into immediate effect.

CHAPTER 120

An act to amend Section 48295 of the Education Code, and to amend Sections 656 and 661 of, and to add Sections 601.4 and 700.2 to, the Welfare and Institutions Code, relating to juvenile courts.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Section 48295 of the Education Code is amended to read:

48295. Any judge of a municipal or justice court in which the school district is located, or in which the offense is committed, has jurisdiction of offenses committed under this article. A juvenile court

has jurisdiction of a violation of Section 48293 as provided by Section 601.4 of the Welfare and Institutions Code.

SEC. 2. Section 601.4 is added to the Welfare and Institutions Code, to read:

601.4. (a) Whenever a case is before a juvenile court alleging that a person under the age of 18 years is a person described in subdivision (b) of Section 601, the juvenile court judge may be assigned to sit as a municipal court judge to hear any complaint alleging that the parent, guardian, or other person having control or charge of that minor has violated Section 48293 of the Education Code. The jurisdiction of the juvenile court granted by this section shall not be exclusive and the charge may be prosecuted instead in a municipal or justice court. However, upon motion, that action shall be transferred to the juvenile court.

(b) Notwithstanding Section 737 of the Penal Code, a violation of Section 48293 of the Education Code may be prosecuted pursuant to subdivision (a), by written complaint filed in the same manner as an infraction may be prosecuted in a municipal or justice court. The juvenile court judge, sitting as a municipal court judge, may coordinate the action involving the minor with the action involving the parent, guardian, or other person having control or charge of the minor. Both matters may be heard and decided at the same time unless the parent, guardian, other person having control or charge of the minor, or any member of the press or public objects to closed hearing of the proceedings charging violation of Section 48293 of the Education Code.

SEC. 3. Section 656 of the Welfare and Institutions Code is amended to read:

656. A petition to commence proceedings in the juvenile court to declare a minor a ward of the court shall be verified and shall contain all of the following:

(a) The name of the court to which it is addressed.

(b) The title of the proceeding.

(c) The code section and subdivision under which the proceedings are instituted.

(d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.

(e) The names and residence addresses, if known to petitioner, of both of the parents and any guardian of the minor. If there is no parent or guardian residing within the state, or if his or her place of residence is not known to petitioner, the petition shall also contain the name and residence address, if known, of any adult relative residing within the county, or, if there are none, the adult relative residing nearest to the location of the court.

(f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.

(g) The fact that the minor upon whose behalf the petition is

brought is detained in custody or is not detained in custody, and if he or she is detained in custody, the date and the precise time the minor was taken into custody.

(h) A notice to the father, mother, spouse, or other person liable for support of the minor child, that: (1) Section 903 makes that person, the estate of that person, and the estate of the minor child, liable for the cost of the care, support, and maintenance of the minor child in any county institution or any other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court; (2) Section 903.1 makes that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of legal services rendered to the minor by a private attorney or a public defender appointed pursuant to the order of the juvenile court; (3) Section 903.2 makes that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of the probation supervision of the minor child by the probation officer pursuant to the order of the juvenile court; and (4) the liabilities established by these sections are joint and several.

(i) In a proceeding alleging that the minor comes within the provisions of Section 601, notice to the parent, guardian, or other person having control or charge of the minor that failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting as a municipal court judge. In those cases, the petition shall also include notice that the parent, guardian, or other person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure.

SEC. 4. Section 661 of the Welfare and Institutions Code is amended to read:

661. In addition to the notice provided in Sections 658 and 659, the juvenile court may issue its citation directing any parent, guardian, or foster parent of the person concerning whom a petition has been filed to appear at the time and place set for any hearing under the provisions of this chapter, including a hearing under the provisions of Section 257, and directing any person having custody or control of the minor concerning whom the petition has been filed to bring the minor with him or her. The notice shall in addition state that a parent, guardian, or foster parent may be required to participate in a counseling or education program with the minor concerning whom the petition has been filed. If the proceeding is one alleging that the minor comes within the provisions of Section 601, the notice shall in addition contain notice to the parent, guardian, or other person having control or charge of the minor that failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting as a municipal court judge. In those cases, the notice shall also include notice that the parent, guardian, or other

person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure. Personal service of the citation shall be made at least 24 hours before the time stated therein for the appearance.

SEC. 5. Section 661 of the Welfare and Institutions Code is amended to read:

661. In addition to the notice provided in Sections 658 and 659, the juvenile court may issue its citation directing any parent, guardian, or foster parent of the person concerning whom a petition has been filed to appear at the time and place set for any hearing or financial evaluation under the provisions of this chapter, including a hearing under the provisions of Section 257, and directing any person having custody or control of the minor concerning whom the petition has been filed to bring the minor with him or her. The notice shall in addition state that a parent, guardian, or foster parent may be required to participate in a counseling or education program with the minor concerning whom the petition has been filed. If the proceeding is one alleging that the minor comes within the provisions of Section 601, the notice shall in addition contain notice to the parent, guardian, or other person having control or charge of the minor that failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting as a municipal court judge. In those cases, the notice shall also include notice that the parent, guardian, or other person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure. Personal service of the citation shall be made at least 24 hours before the time stated therein for the appearance.

SEC. 6. Section 700.2 is added to the Welfare and Institutions Code, to read:

700.2. Upon his or her appearance before the juvenile court on a complaint charging violation of Section 48293 of the Education Code, the juvenile court shall inform the parent, guardian, or other person having control or charge of the minor of the right to an open hearing and of the right to have a hearing on the complaint before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The provisions of Section 170.6 of the Code of Civil Procedure shall be explained to the parent, guardian, or other person having control or charge of the minor.

SEC. 7. Section 5 of this bill incorporates amendments to Section 661 of the Welfare and Institutions Code proposed by both this bill and SB 1252. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 661 of the Welfare and Institutions Code, and (3) this

bill is enacted after SB 1252, in which case Section 4 of this bill shall not become operative.

CHAPTER 121

An act to amend Section 5500 of the Fish and Game Code, relating to fish and game.

[Approved by Governor July 1, 1985. Filed with Secretary of State July 1, 1985]

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

SECTION 1. Section 5500 of the Fish and Game Code is amended to read:

5500. It is unlawful to use explosives in the waters of this state inhabited by fish, except under a permit first obtained by the user from the department consistent with terms and conditions set by the commission, or except in case of emergency, to remove an accidental obstruction to the flow of water. Any person may appeal the department's decision to grant or deny a permit to the commission.

CHAPTER 122

An act to amend Section 803 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985.]

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

SECTION 1. Section 803 of the Penal Code is amended to read:

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

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

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

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

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

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

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

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

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

SEC. 2. The intent of the Legislature in the enactment of Chapter 2 (commencing with Section 799) of Title 3 of Part 2 of the Penal Code, as added by Chapter 1270 of the Statutes of 1984, was, and is, that the "maximum punishment" referred to in subdivision (a) of Section 805 of the Penal Code is that sentence which was prescribed as of January 1, 1985, or any sentence prescribed thereafter, regardless of any sentence prescribed for that offense prior to January 1, 1985. It was, and is, the further intent of the Legislature in the enactment of Chapter 1270 that it shall not be construed to bar prosecution of an offense for which a maximum punishment of eight years or more in state prison was prescribed as of January 1, 1985, and which could have been prosecuted under the law in effect immediately prior to the operative date of that chapter.

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

In order to prevent an erroneous interpretation of law, pertaining to the statute of limitations, resulting in the dismissal of criminal charges against persons accused of serious crimes, it is necessary that this act take immediate effect.

CHAPTER 123

An act to amend Sections 18056.2 and 18056.4 of the Health and Safety Code, relating to manufactured housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Section 18056.2 of the Health and Safety Code is amended to read:

18056.2. On or before January 1, 1986, the department shall adopt regulations to prescribe the following:

(a) A definition of basic requirements for continuing education, except as provided in subdivision (b), of both of the following:

(1) Twenty-four hours of attendance at approved educational courses, seminars, or conferences, or their equivalent, achieved during a two-year period preceding renewal application in the case of the dealer.

(2) Thirty-six hours of attendance at approved educational courses, seminars, or conferences, or their equivalent, achieved during a three-year period preceding renewal application in the case of a salesperson.

(b) (1) A requirement that a dealer or salesperson who applies for license renewal on or after January 1, 1987, but no later than July 1, 1987, shall achieve no less than 12 hours of continuing education to meet the requirements of this article.

(2) A requirement that a salesperson who applies for license renewal after July 1, 1987, but no later than July 1, 1988, shall achieve no less than 24 hours of continuing education to meet the requirements of this article.

(c) A basis and method of qualifying educational programs, the certification of attendance at which, or challenging the course of which, will satisfy the requirements of this article.

(d) A procedure for evaluation of petitions based on a claim of equivalency with the requirements of subdivision (a), and a reasonable standard by which activity would be judged equivalent, including, but not limited to, instruction in manufactured housing educational programs, law, or research.

(e) A system of control and reporting qualifying attendance.

(f) A statement of the conditions of exemption from the continuing education requirements established under this article, as well as a method of applying and qualifying for the exemption, for reason of health, military service, or other compelling cause.

(g) Criteria for the content, availability, and procedures for no less than six hours of preliminary education courses or programs which shall be attended and successfully concluded by applicants for new dealers' or salespersons' licenses before the applicants take the licensing examinations.

In exercising the authority under this article, the department shall establish standards which will assure reasonable currency of knowledge as a basis for a level of manufactured housing practice which will provide a high level of consumer protection and service. The standards shall include, where qualified, generally accredited educational institutions, private vocational schools, correspondence institutions, educational programs and seminars of professional societies and organizations, other organized educational programs or technical subjects, or equivalent offerings.

SEC. 2. Section 18056.4 of the Health and Safety Code is amended to read:

18056.4. On or after January 1, 1987, no dealer's or salesperson's license shall be issued or renewed unless the department finds that

the applicant has completed the preliminary or continuing education required by this article. Any denial of license issuance or renewal is subject to Article 2 (commencing with Section 18050).

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

Chapter 1528 of the Statutes of 1984 established a deadline of July 1, 1985, for the Department of Housing and Urban Development to adopt specified regulations. Since this deadline is not feasible, it is necessary to extend the date before the deadline is reached. Therefore, it is necessary for this act to take effect immediately.

CHAPTER 124

An act to amend Section 2003 of the Fish and Game Code, relating to fish and game.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Section 2003 of the Fish and Game Code is amended to read:

2003. (a) It is unlawful to offer any prize or other inducement as a reward for the taking of any game birds, mammals, fish, reptiles, or amphibia in an individual contest, tournament, or derby where the total value of all prizes or other inducements exceeds two hundred dollars ($200), except for trout, striped bass, and black bass pursuant to a permit issued under subdivision (b).

(b) The department may issue a permit to any person, as defined in Section 67, authorizing that person to offer a prize or other inducement as a reward for the taking of trout, striped bass, or black bass. The department may issue a permit if it finds that there would be no detriment to the resource. The permit shall be subject to regulations adopted by the commission, except that no permit shall be required for any person where the total value of all of the prizes or other inducements does not exceed two hundred dollars ($200) for each individual contest, tournament, or derby. The application for the permit shall be accompanied by a fee in the amount determined by the department as necessary to cover the reasonable administrative costs incurred by the department in issuing the permit.

(c) This section does not apply to any person, as defined in Section 67, conducting what are generally known as frog-jumping contests or fish contests conducted in waters of the Pacific Ocean.

SEC. 2. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution 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 125

An act to add Section 16477 to the Public Utilities Code, relating to public utility districts.

[Approved by Governor July 1, 1985. Filed with Secretary of State July 1, 1985.]

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

SECTION 1. Section 16477 is added to the Public Utilities Code, to read:

16477. Notwithstanding Section 16475, the Board of Directors of the Fallbrook Public Utility District may fix and collect an annual water standby or immediate availability charge not to exceed thirty dollars ($30) per acre or any parcel of less than one acre.

The Legislature hereby finds and declares that this section, applicable only to the Fallbrook Public Utility District, is necessary because of the unique and special water management problems within that district.

CHAPTER 126

An act to amend Sections 22454, 22470, 24454, and 24470 of the Financial Code, relating to loans.

[Approved by Governor July 1, 1985. Filed with Secretary of State July 1, 1985.]

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

SECTION 1. Section 22454 of the Financial Code is amended as follows:

22454. (a) Except as provided in Section 22451.3 and in Article 3 (commencing with Section 22480), all charges on loans made under this division shall be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof, and shall be so expressed in every obligation signed by the borrower. The charges on loans shall be computed on the basis of the number of days actually elapsed, for the purpose of which computations a month is any period of 30 consecutive days.

(b) The loan contract shall provide for payment of the aggregate amount contracted to be paid in substantially equal periodical installments, the first of which shall be due not less than 15 days nor more than one month and 15 days from the date the loan is made.

This subdivision shall not apply to a loan made to a graduate student at an accredited college or university while the student is actively pursuing a study program leading to a postbaccalaureate degree, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070, et seq.).

(c) This section shall not apply to open end loans.

SEC. 2. Section 22470 of the Financial Code is amended as follows:

22470. No licensee shall enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set forth below opposite the respective size of loans.

Principal amount of loan	Maximum term
Less than $1,500	24 months and 15 days
$1,500 but less than $2,500	36 months and 15 days
$2,500 but less than $4,000	48 months and 15 days
$4,000 but less than $6,000	60 months and 15 days
$6,000 but less than $10,000	84 months and 15 days

This section shall not apply to open end loans, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070, et seq.).

SEC. 3. Section 24454 of the Financial Code is amended as follows:

24454. (a) Except as provided in Section 24451.3 and in Article 3 (commencing with Section 24480), all charges on loans made under this division shall be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof, and shall be so expressed in every obligation signed by the borrower. The charges on loans shall be computed on the basis of the number of days actually elapsed, for the purpose of which computations a month is any period of 30 consecutive days.

(b) The loan contract shall provide for payment of the aggregate amount contracted to be paid in substantially equal periodical installments, the first of which shall be due not less than 15 days nor more than one month and 15 days from the date the loan is made.

This subdivision shall not apply to a loan made to a graduate student at an accredited college or university while the student is actively pursuing a study program leading to a postbaccalaureate degree, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070, et seq.).

(c) This section shall not apply to open end loans.

SEC. 4. Section 24470 of the Financial Code is amended as fol-

lows:

24470. No licensee shall enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set forth below opposite the respective size of loans.

Principal amount of loan	Maximum term
Less than $1,500	24 months and 15 days
$1,500 but less than $2,500	36 months and 15 days
$2,500 but less than $4,000	48 months and 15 days
$4,000 but less than $6,000	60 months and 15 days
$6,000 but less than $10,000	84 months and 15 days

This section shall not apply to open end loans, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070, et seq.).

CHAPTER 127

An act to amend Section 12155.5 of, and to repeal and add Section 12156 of, the Fish and Game Code, relating to fish and game.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Section 12155.5 of the Fish and Game Code is amended to read:

12155.5. (a) Any person, whose license was revoked pursuant to Section 12154, 12155, or 12156, may appeal to the commission for reissuance of the license and termination of the prohibition against taking of fish, reptiles, or amphibia, or birds or mammals, as the case may be.

(b) After a public hearing at which the person has appeared in person, the commission may terminate the prohibition and authorize the issuance of a license if it finds that there are sufficient mitigating circumstances to warrant that action.

SEC. 2. Section 12156 of the Fish and Game Code is repealed.

SEC. 3. Section 12156 is added to the Fish and Game Code, to read:

12156. No person who is licensed or required to be licensed pursuant to Section 4005 and who is convicted of a violation of any provision of Article 1 (commencing with Section 4000) of Chapter 2 of Part 3 of Division 4 or of Section 4150 shall take any fur-bearing or nongame mammal in the state for three years from the date of the next regularly scheduled meeting of the commission held at least 30 days after the date of that conviction. The commission shall revoke the trapping license of the person who is prohibited from taking

fur-bearing and nongame mammals in the state, if the person has one, for the period of prohibition.

No person shall obtain, or attempt to obtain, a trapping license during a period of prohibition.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 128

An act to amend Section 11019 of the Business and Professions Code, relating to real estate.

[Approved by Governor July 1, 1985. Filed with Secretary of State July 1, 1985.]

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

SECTION 1. Section 11019 of the Business and Professions Code is amended to read:

11019. (a) Whenever the commissioner determines from available evidence that a person has done any of the following, the commissioner may order the person to desist and refrain from those acts and omissions or from the further sale or lease of interests in the subdivision until the condition has been corrected:

(1) Has violated or caused the violation of any provision of this part or the regulations pertaining thereto.

(2) Has violated or caused a violation of Section 17537, 17537.1, or 17539.1, in advertising or promoting the sale of subdivision interests.

(3) Has failed to fulfill representations or assurances with respect to the subdivision or the subdivision offering upon which the department relied in issuing a subdivision public report.

(4) Has failed to inform the department of material changes that have occurred in the subdivision or subdivision offering which have caused the subdivision public report to be misleading or inaccurate or which would have caused the department to deny a public report if the conditions had existed at the time of issuance.

(b) Upon receipt of such an order, the person or persons to whom the order is directed shall immediately discontinue activities in accordance with the terms of the order.

(c) Any person to whom the order is directed may, within 30 days after service thereof upon him, file with the commissioner a written request for hearing to contest the order. The commissioner shall after receipt of a request for hearing assign the matter to the Office of Administrative Hearings to conduct a hearing for findings of fact

and determinations of the issues set forth in the order. If the hearing is not commenced within 15 days after receipt of the request for hearing, or on the date to which continued with the agreement of the person requesting the hearing, or if the decision of the commissioner is not rendered within 30 days after completion of the hearing, the order shall be deemed to be vacated.

(d) Service and proof of service of an order issued by the commissioner pursuant to this section may be made in a manner and upon such persons as prescribed for the service of summons in Article 3 (commencing with Section 415.10), Article 4 (commencing with Section 416.10) and Article 5 (commencing with Section 417.10) of Chapter 4 of Title 5 of Part 2, of the Code of Civil Procedure.

CHAPTER 129

An act to amend Section 5474 of the Health and Safety Code, relating to sanitation and sewerage systems.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Section 5474 of the Health and Safety Code is amended to read:

5474. An entity shall have the power by ordinance approved by two-thirds vote of the members of the legislative body thereof to fix fees or charges for the privilege of connecting to its sanitation or sewerage facilities and improvements constructed by the entity pursuant to Sections 5463 and 5464, to fix the time or times at which the fees or charges shall become due, to provide for the payment of the fees or charges prior to connection or in installments over a period of not to exceed 15 years, to provide the rate of interest, not to exceed 12 percent per annum, to be charged on the unpaid balance of the fees or charges, and to provide that the amount of the fees or charges and the interest thereon shall constitute a lien against the respective lots or parcels of land to which the facilities are connected at the time and in the manner specified in Sections 5473.5 and 5473.8. Prior to making the fees or charges a lien against the land, the legislative body shall give notice to the owners of the lots or parcels of land affected, and the notice shall set forth all of the following:

(a) The schedule of fees or charges to be imposed by the entity.

(b) A description of the property subject to the fees or charges, which description may be by reference to a plat or diagram on file in the office of the clerk of the legislative body, or to maps prepared in accordance with Section 327 of the Revenue and Taxation Code, and on file in the office of the county assessor.

(c) The time or times at which the fees or charges shall become due.

(d) The number of installments in which the fees or charges shall be payable.

(e) The rate of interest, not to exceed 12 percent per annum, to be charged on the unpaid balance of the fees or charges.

(f) That it is proposed that the fees or charges and interest thereon shall constitute a lien against the lots or parcels of land to which the facilities are furnished.

(g) The time and place at which the legislative body will hold a hearing at which persons may appear and present any and all objections they may have to the imposition of the fees or charges as a lien against the land.

CHAPTER 130

An act to amend Section 17539.1 of the Business and Professions Code, relating to contests.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Section 17539.1 of the Business and Professions Code is amended to read:

17539.1. (a) The following unfair acts or practices undertaken by, or omissions of, any person in the operation of any contest are prohibited:

(1) Failing to clearly and conspicuously disclose, at the time of the initial contest solicitation, at the time of each precontest promotional solicitation and each time the payment of money is required to become or to remain a contestant, the total number of contestants anticipated based on prior experience and the percentages of contestants correctly solving each puzzle used in the three most recently completed contests conducted by the person. If the person has not operated or promoted three contests he shall disclose for each prior contest if any, the information required by this section.

(2) Failing to promptly send to each member of the public upon his request, the actual number and percentage of contestants correctly solving each puzzle or game in the contest most recently completed.

(3) Misrepresenting in any manner the odds of winning any prize.

(4) Misrepresenting in any manner, the rules, terms, or conditions of participation in a contest.

(5) Failing to clearly and conspicuously disclose with all contest puzzles and games and with all promotional puzzles and games all of the following:

(A) The maximum number of puzzles or games which may be necessary to complete the contest and determine winners.

(B) The maximum amount of money, including the maximum cost of any postage and handling fees, which a participant may be asked to pay to win each of the contest prizes then offered.

(C) That future puzzles or games, if any, or tie breakers, if any, will be significantly more difficult than the initial puzzle.

(D) The date or dates on or before which the contest will terminate and upon which all prizes will be awarded.

(E) The method of determining prizewinners if a tie remains after the last tie breaker puzzle is completed.

(F) All rules, regulations, terms, and conditions of the contest.

(6) Failing to clearly and conspicuously disclose the exact nature and approximate value of the prizes when offered.

(7) Failing to award and distribute all prizes of the value and type represented.

(8) Representing directly or by implication that the number of participants has been significantly limited, or that any particular person has been selected to win a prize unless such is the fact.

(9) Representing directly or by implication that any particular person has won any money, prize, thing, or other value in a contest unless there has been a real contest in which a meaningful percentage, which shall be at least a majority, of the participants in such contests have failed to win a prize, money, thing, or other value.

(10) Representing directly or by implication that any particular person has won any money, prize, thing, or other value without disclosing the exact nature and approximate value thereof.

(11) Using the word "lucky" to describe any number, ticket, coupon, symbol, or other entry, or representing in any other manner directly or by implication that any number, ticket, coupon, symbol, or other entry confers or will confer an advantage upon the recipient that other recipients will not have, that the recipient is more likely to win a prize than are others, or that the number, ticket, coupon, symbol or other entry has some value that other entries do not have.

(12) Failing to obtain the express written or oral consent of individuals before their names are used for a promotional purpose in connection with a mailing to a third person.

(13) Using or distributing simulated checks, currency, or any simulated item of value unless there is clearly and conspicuously printed thereon the words: SPECIMEN—NONNEGOTIABLE.

(14) Representing, directly or by implication, orally or in writing, that any tie breaker puzzle may be entered upon the payment of money qualifying the contestant for an extra cash or any other type prize or prizes unless:

(A) It is clearly and conspicuously disclosed that the payments are optional and that contestants are not required to pay money, except for reasonable postage and handling fees, to play for an extra cash or any other type of prize or prizes; and

(B) Contestants are clearly and conspicuously given the

opportunity to indicate they wish to enter such phase of the contest for free, except for reasonable postage and handling fees the amount of which shall not exceed one dollar and fifty cents ($1.50) plus the actual cost of postage and which shall be clearly and conspicuously disclosed at the time of the initial contest solicitation and each time thereafter that the payment of such fees is required. The contestants' opportunity to indicate they wish to enter for free shall be in immediate conjunction with and in a like manner as the contestants' opportunity to indicate they wish to play for an extra prize.

(b) This section does not apply to an advertising plan or program that is regulated by, and complies with, the requirements of Section 17537.1.

SEC. 2. The amendment of subparagraph (B) of paragraph (5) of subdivision (a) and subparagraph (A) of paragraph (14) of subdivision (a) of Section 17539.1 of the Business and Professions Code made by this act at the 1985–86 Regular Session of the Legislature does not constitute a change in, but is declaratory of, existing law.

CHAPTER 131

An act to add Section 25271.5 to the Vehicle Code, relating to animal control.

[Approved by Governor July 1, 1985. Filed with Secretary of State July 1, 1985.]

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

SECTION 1. Section 25271.5 is added to the Vehicle Code, to read:

25271.5. Any publicly owned vehicle used for the enforcement of animal control laws contained in a statute, local ordinance, or regulation may display flashing or revolving amber warning lights to the front, sides, or rear of the vehicle when actually engaged in the enforcement of those laws and when necessarily parked on a roadway or moving at a speed slower than the normal flow of traffic.

CHAPTER 132

An act to amend Section 87482 of, and to add Section 87482.5 to, the Education Code, relating to certificated employees.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Section 87482 of the Education Code is amended to read:

87482. (a) Notwithstanding the provisions of Section 87480, the governing board of a community college district may employ as an instructor in grade 13 or grade 14, for a complete school year but not less than a complete semester or quarter during a school year, any person holding appropriate certification documents, and may classify that person as a temporary employee. The employment of those persons shall be based upon the need for additional certificated employees for grades 13 and 14 during a particular semester or quarter because of the higher enrollment of students in those grades during that semester or quarter as compared to the other semester or quarter in the academic year, or because a certificated employee has been granted leave for a semester, quarter, or year, or is experiencing long-term illness, and shall be limited, in number of persons so employed, to that need, as determined by the governing board.

Such employment may be pursuant to contract fixing a salary for the entire semester or quarter.

(b) No person shall be so employed by any one district under this section for more than two semesters or quarters within any period of three consecutive years.

SEC. 2. Section 87482.5 is added to the Education Code, to read:

87482.5. (a) Notwithstanding any other provision of law, any person who is employed to teach adult or community college classes for not more than 60 percent of the hours per week considered a full-time assignment for regular employees having comparable duties shall be classified as a temporary employee, and shall not become a contract employee under Section 87604.

°(b) Service as a substitute on a day-to-day basis by persons employed under this section shall not be used for purposes of calculating eligibility for contract or regular status.

CHAPTER 133

An act to amend Sections 54774.3 and 54775 of the Government Code, relating to local agency formation commissions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1985. Filed with Secretary of State July 1, 1985.]

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

SECTION 1. Section 54774.3 of the Government Code is amended to read:

54774.3. (a) The commission shall develop, determine, and adopt the sphere of influence for each local governmental agency within its jurisdiction which provides facilities or services related to development no later than January 1, 1985. The commission shall develop, determine, and adopt the sphere of influence for all other local governmental agencies within its jurisdiction no later than June 30, 1985.

(b) Notwithstanding subdivision (a) and Section 54790.4, a commission which has not adopted a sphere of influence for a local governmental agency which provides facilities or services related to development may review, approve, conditionally approve, or disapprove a proposal which includes territory which might be contained within the sphere of that local agency, or any proposal for annexation of territory or for the formation of a district, if the application was submitted to the executive officer pursuant to Section 54791, on or before December 31, 1984. Before approving or conditionally approving a proposal pursuant to this subdivision, a commission shall find that there is a reasonable probability that the proposal will be consistent with the spheres of influence being prepared for the local agency for which the proposal is proposed.

(c) Until June 30, 1985, a commission which has not adopted a sphere of influence for local governmental agencies which do not provide facilities or services related to development may review, approve, conditionally approve, or disapprove proposals which include territory which might be contained within the sphere of influence of these local agencies. When acting on a proposal pursuant to this subdivision, the commission shall prepare a written statement of determinations with respect to the existence of agricultural preserves in the area which could be considered within an agency's sphere of influence and the effect on maintaining the physical and economic integrity of the agricultural preserves in the event that such preserves are within a sphere of influence of a local governmental agency. If the proposal would result in the conversion of prime agricultural land within the agricultural preserves to nonagricultural use, the commission shall make written determinations explaining the reasons for its decision.

(d) A commission shall not approve or conditionally approve any proposal which would result in the conversion of agricultural land to nonagricultural use if the commission has not adopted a sphere of influence for each local governmental agency which might, as determined by the commission, include the subject territory in its sphere of influence and which provides facilities or services related to development.

(e) "Facilities or services related to development," as used in this section, means public works or service programs related to sewers, nonagricultural water, streets and roads, flood control, drainage, and structural fire protection.

SEC. 2. Section 54775 of the Government Code is amended to read:

54775. Unless the provisions or context otherwise require, the following definitions shall govern the construction of this chapter:

(a) "Affected local agency" means, in the case of an incorporation, an affected county, as defined in Section 35022, or an affected district, as defined in Section 35023; or in the case of a formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, an affected city, as defined in Section 56021, an affected county, as defined in Section 56022, or an affected district, as defined in Section 56023, except that district, as used in Section 56023, shall have the same meaning as that term is defined in Section 2215 of the Revenue and Taxation Code.

(b) "City officer" means the mayor or a member of the legislative body of the city.

(c) "Commission" means a local agency formation commission created pursuant to this chapter.

(d) "County officer" means a member of the board of supervisors.

(e) "Function" means any power granted by law to a local agency or a county to provide designated governmental or proprietary services or facilities for the use, benefit, or protection of persons or property.

(f) "Independent special district" includes any special district having a legislative body, all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms, and excludes any special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers, other than those who are appointed to fixed terms. "Independent special district" does not include any district excluded from the provisions of the District Reorganization Act pursuant to the provisions of Section 56039.

(g) "Independent special district officer" means the presiding officer or a member of the legislative body of an independent special district.

(h) "Initiate" or "initiation" means, in the case of proceedings, the first procedural step authorized or required by any law for the commencement of proceedings, if the step is one of the following:

(1) The circulation of a petition requesting any proceedings.

(2) The filing with any officer of a county or a local agency of a notice of intention to circulate a petition.

(3) The adoption by a legislative body of a county or a local agency of any resolution, order, or ordinance initiating proceedings on its own motion.

(i) "Local agency" means a city or a special district.

(j) "Principal county," in the case of a special district whose territory is or will be located in two or more counties, shall have the meaning contained in any definition of "principal county," as set forth in the law pursuant to which the special district was or is

proposed to be formed. If the law pursuant to which the special district was, or is proposed to be, formed contains no definition, for purposes of this chapter, "principal county" means the county having all or the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the counties, of the taxable property in, or proposed to be included in, the special district.

(k) "Proceedings" means the procedure authorized and required by any law for the incorporation of a new city, the formation of a special district, the annexation of territory to a local agency or the exclusion of territory from a city, or the disincorporation of a city.

(*l*) "Proponent" means any person intending to circulate or cause the circulation of any petition.

(m) "Service" means a class established within, and as a part of, a single function, as provided by rules and regulations adopted by the commission pursuant to Article 4 (commencing with Section 54850).

(n) "Special district" means an agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Special district" does not include the state, a city, a county, or a school district. "Special district" includes a county service area but does not include a special assessment district formed under the Improvement Act of 1911, the Municipal Improvement Act of 1913, the Street Opening Act of 1903, the Vehicle Parking District Law of 1943, the Parking District Law of 1951, the Pedestrian Mall Law of 1960, or any similar assessment law, or any similar procedural ordinance adopted by a chartered city. "Special district" does not include an improvement district or zone formed for the sole purpose of designating an area which is to bear a special tax or assessment for an improvement benefiting that area, including, but not limited to, community facilities districts formed pursuant to either of the Mello-Roos Community Facilities Acts of 1982, (Chapter 2.5 (commencing with Section 53311)), as added by Chapter 1439 or Chapter 1451 of the Statutes of 1982.

(o) "Open space" means any parcel or area of land or water which is essentially unimproved and devoted to an open-space use as defined in Section 65560.

(p) "Open-space use" means any use as defined in Section 65560.

(q) "Prime agricultural land" means land which qualifies for rating as class I or class II in the United States Soil Conservation Service land-use capability classifications or land which qualifies for rating 80 through 100 in the Storie Index Rating.

(r) "Agricultural lands" means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.

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

Due to heavy workloads, many local agency formation commissions will be unable to complete the required sphere of influence determinations for local agencies within their jurisdictions by the January 1, 1985 statutory deadline, thus precluding any futher proceedings on proposals for which substantial preliminary work has already progressed. In order that local agencies may continue to process those proceedings which were initiated by December 31, 1984, but for which the required spheres of influence are not completed by the January 1, 1985 deadline, it is necessary that this act go into effect immediately.

CHAPTER 134

An act to amend Sections 18975.1, 18975.2, 18975.7, 18976.5, 18978.1, 18978.2, 18978.3, and 18978.4 of, to amend and renumber Sections 18975.9 and 18975.10 of, and to add Section 18976.1 to, and to repeal Section 18975.8 of, the Welfare and Institutions Code, and to amend Section 4 of, and to repeal Section 5 of, Chapter 1638 of the Statutes of 1984, relating to child abuse, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Section 18975.1 of the Welfare and Institutions Code is amended to read:

18975.1. The Legislature finds and declares all of the following:

(a) Child abuse and neglect is a severe and increasing problem in California.

(b) School districts and center based preschools are able to provide an environment for training of children, parents, and appropriate school district staff.

(c) Primary prevention programs in the school districts are an effective and cost-efficient method of reducing the incidence of child abuse and neglect and for promoting healthy family environments.

(d) To ensure comprehensive and effective primary prevention education to California's center based preschools and public school children, it is the intent of the Legislature to provide adequate funding to carry out the purposes of this chapter.

SEC. 2. Section 18975.2 of the Welfare and Institutions Code is amended to read:

18975.2. It is the intention of the Legislature that primary prevention training for all children in state-funded center based preschools and public schools, kindergarten through grade 12 be encouraged by the funding of appropriate agencies to provide the training.

SEC. 3. Section 18975.7 of the Welfare and Institutions Code is amended to read:

18975.7. A "primary prevention program" means a training and educational program for children, which is directed toward all of the following:

(a) Preventing the occurrence of child abuse, including physical abuse, sexual abuse, and child neglect.

(b) Reducing the general vulnerability of children, including coordination with and training for parents and school staff.

SEC. 4. Section 18975.8 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 18975.9 of the Welfare and Institutions Code is amended and renumbered to read:

18975.8. "Prevention training center" means a center defined in Article 3 (commencing with Section 18977).

SEC. 6. Section 18975.10 of the Welfare and Institutions Code is amended and renumbered to read:

18975.9. "Center based preschools" means state subsidized centers in which children of preschool age are provided services under the child development programs identified in paragraphs (1) to (4), inclusive, of subdivision (h) of Section 8208 of the Education Code and the State Preschool Program identified in subdivision (dd) of Section 8208 of the Education Code.

SEC. 7. Section 18976.1 is added to the Welfare and Institutions Code, to read:

18976.1. For the purposes of program effectiveness, it is the intent of the Legislature that children's workshops, in general, be delivered to classroom-size, or smaller, groups of children. It is further the intent of the Legislature that, in general, when services are delivered to a particular school, they be delivered throughout the school as a whole, with the exception that services may be delivered to kindergarten or special education classes, without necessarily delivering services to the entire school.

SEC. 8. Section 18976.5 of the Welfare and Institutions Code is amended to read:

18976.5. Parents shall be given notice of, and may refuse to have their children participate in, a primary prevention program.

SEC. 9. Section 18978.1 of the Welfare and Institutions Code is amended to read:

18978.1. The office shall select the two training centers which can fulfill the requirement of Section 18977, and which meet the following requirements:

(a) For the northern California training center, the grant shall be awarded to the applicant which has demonstrated experience and expertise in administering a prevention training center and which has demonstrated the following:

(1) Provided training and ongoing technical assistance for the greatest number of primary prevention programs as defined in Section 18975.7 in school districts and preschools.

(2) Trained and employed the greatest number of trainers with experience in providing primary prevention programs.

(3) Employed trainers representing the cultural and geographical diversity of the service area.

(b) For the southern California training center the grant shall be awarded to the applicant which demonstrates the following:

(1) Experience in child abuse prevention training.

(2) Capacity for training of primary child abuse prevention programs as defined in Section 18976.

(3) Broad community support.

(4) Capability for developing staffing which represents the cultural diversity of their service area and a plan for developing this staff.

SEC. 10. Section 18978.2 of the Welfare and Institutions Code is amended to read:

18978.2. The office shall distribute a standard request for proposal and shall select the primary prevention program for each service area through a competitive bidding process. Grants for programs in each county shall be determined on a proportional basis according to the number of children in center based preschools and in the schools, kindergarten through 12th grade, except that allocations for primary prevention programs in any one county shall not be less than ten thousand dollars ($10,000).

The proposals shall include a plan by the applicant as to how its program will serve children in the service area, including all of the following information:

(a) How many children will be served each year.

(b) How each school in the service area is to be served so that children receive age-appropriate training in preschool, once during kindergarten, and at least three times during a child's school career in grades 1 through 12. Any plan proposing to deliver services in a manner other than that contained in Section 18976.1 shall provide justification for the necessity to use an alternate service delivery method. The office shall consider the alternate proposed delivery method in the review of proposals.

(c) How multicultural staffing will be developed, including plans for the hiring and training of staff.

SEC. 11. Section 18978.3 of the Welfare and Institutions Code is amended to read:

18978.3. In awarding grants for primary prevention programs, the office:

(a) May, in order to achieve economies of scale, designate service areas for grants that include more than one county. Should acceptable applicants from more than one county in such a multicounty service area submit proposals, the office may separate the area into as many counties for service delivery as is appropriate. The office may also designate more than one service area in large counties and counties with large school-age populations.

(b) Shall award grants only to those qualified applicants set forth

below and in the following order of priority:

(1) Private, nonprofit, and public primary prevention programs with experience in the county to be served that meet the requirements of Sections 18975.7 and 18976 by October 1, 1984.

(2) Private, nonprofit, community organizations based in the county to be served.

(3) Public institutions based in counties which do not have qualified organizations as defined in paragraphs (1) and (2).

(4) Private, nonprofit community organizations in adjacent counties.

(5) Public institutions based in adjacent counties.

SEC. 12. Section 18978.4 of the Welfare and Institutions Code is amended to read:

18978.4. (a) Requests for proposals shall be sent out by March 1, 1985.

(b) The office shall so conduct its primary prevention program selection process that the selected programs are prepared to provide required training during the 1985–1986 school year. Requests for proposals shall be sent out as soon as possible, and at least 30 calendar days shall be allowed for submission of proposals for the competitive bidding.

(c) In accordance with Section 18979, no selected primary prevention program may commence operations prior to July 1, 1985.

(d) In order to ensure that primary prevention programs can provide training beginning in the 1985–86 school year, the office shall give priority in the processing of applications, execution of grants, and issuance of funds to those applicants who apply and qualify under paragraph (1) of subdivision (b) of Section 18978.3.

SEC. 13. Section 4 of Chapter 1638 of the Statutes of 1984 is amended to read:

Sec. 4. (a) In order to develop a uniform and coordinated service delivery system and to insure that services are not duplicated, it is the intent of the Legislature that funds allocated under Sections 18962, 18963, and 18966 to 18971, inclusive, of the Welfare and Institutions Code, shall not be used to duplicate programs funded under Chapter 12 (commencing with Section 18975) of Part 6 of Division 9 of the Welfare and Institutions Code.

(b) It is the intent of the Legislature that existing primary prevention programs funded under Sections 18962, 18963, and 18966 to 18971, inclusive, of the Welfare and Institutions Code receive continued funding under those sections until program selections under this chapter are completed. The Office of Child Abuse Prevention in the State Department of Social Services shall initiate actions to continue programs provided for under Sections 18962 and 18963 of the Welfare and Institutions Code which are selected at both the state and county levels pending final program selection under this chapter.

(c) It is also the intent of the Legislature that projects selected by the Office of Criminal Justice Planning to perform primary

prevention programs, within the meaning of this chapter and funded for fiscal year 1984–85 under Section 13837 of the Penal Code, also receive continued funding under this chapter until program selections are completed. The office shall enter into an interagency agreement with the Office of Criminal Justice Planning for this purpose, utilizing funds provided by paragraph (1) of subdivision (b) of Section 18979 of the Welfare and Institutions Code.

SEC. 14. Section 5 of Chapter 1638 of the Statutes of 1984 is repealed.

SEC. 15. 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 facilitate the administration of the Maxine Waters Child Abuse Prevention Training Act of 1984 through the clarification of the wording of the statute and to make essential changes as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 135

An act to amend Sections 14195.6 and 14195.8 of, to amend and renumber Sections 14195, 14195.1, and 14195.2 of, to add Sections 14195, 14195.2, 14195.3, and 14196.1 to, and to repeal Article 6.1 (commencing with Section 14195) of Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Article 6.1 (commencing with Section 14195) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, as added by Chapter 1622 of the Statutes of 1984, is repealed.

SEC. 2. Section 14195 is added to the Welfare and Institutions Code, to read:

14195. It is the intent of the Legislature to provide medical assistance, including prescribed drugs, to the state's eligible poor in a manner consistent with the provisions of the federal Medicaid Act, provided for under Title XIX of the Social Security Act (42 U.S.C. Sec. 1396 et seq.). It is the further intent of the Legislature to test the effectiveness of an open formulary drug therapy program, in conjunction with the use of a therapeutic system of drug utilization review, in reducing the costs to the state of providing acute and long-term care services. In order to help achieve this goal, the Legislature hereby establishes an open drug formulary under the Medi-Cal program wherein a beneficiary may receive the most

appropriate, most effective, and most cost-efficient drug available for the treatment of his or her illness.

SEC. 3. Section 14195 of the Welfare and Institutions Code, as added by Chapter 1636 of the Statutes of 1984, is amended and renumbered to read:

14195.1. It is also the intent of the Legislature in enacting this article to establish a drug utilization review system which will evaluate and enhance the therapeutic outcome of drugs prescribed for persons eligible for Medi-Cal pursuant to this chapter.

SEC. 4. Section 14195.1 of the Welfare and Institutions Code, as added by Chapter 1636 of the Statutes of 1984, is amended and renumbered to read:

14195.4. A Medi-Cal Therapeutic Drug Utilization and Review Committee is hereby established. The committee shall be composed of 17 members who shall serve at the pleasure of the appointing powers as follows:

(a) The Governor shall appoint two representatives from the State Department of Health Services, one representative from the Health and Welfare Agency, and two representatives from schools of pharmacy.

(b) The Governor, the Speaker of the Assembly, and the Senate Rules Committee shall each appoint one representative from the following groups:

(1) Licensed pharmacists.

(2) Licensed physicians.

(3) Drug manufacturers.

(4) Medi-Cal beneficiaries.

SEC. 5. Section 14195.2 of the Welfare and Institutions Code, as added by Chapter 1636 of the Statutes of 1984, is amended and renumbered to read:

14195.5. The Medi-Cal Therapeutic Drug Utilization and Review Committee shall set standards for evaluation of the therapeutic outcomes of prescribed drugs to be applied by an expert contractor to the department. The committee shall have the following responsibilities:

(a) Developing policy for monitoring and controlling therapeutically inappropriate drug utilization.

(b) Overseeing the establishment of a computer-based information system using the State Medicaid MMIS System, which shall provide timely information on drug prescription and consumption and shall be capable of tracking prescriptions by drug, by illness, by beneficiary, and by provider.

The committee shall consult with expert contractors experienced in therapeutically oriented drug utilization review in the discharge of this responsibility.

(c) Establishing standards, in consultation with an expert contractor experienced in the therapeutically oriented drug utilization review, for dosage, duration, and effectiveness of medications with respect to a particular diagnosis.

(d) Setting standards to serve as guidelines on misprescribing, overprescribing, and contraindicated drug use, and protocols for informing prescribers of inappropriate prescribing.

SEC. 6. Section 14195.2 is added to the Welfare and Institutions Code, to read:

14195.2. The open drug formulary, as established pursuant to this article, shall be implemented in one pilot project site. The site shall be located in a northern California test area, comprised of Sacramento and Placer Counties which includes urban, suburban, and rural settings.

SEC. 7. Section 14195.3 is added to the Welfare and Institutions Code, to read:

14195.3. (a) For purposes of the open drug formulary pilot project as established by this article, a provider may be reimbursed for any drug prescribed to a beneficiary if the drug is prescribed by a licensed provider within the scope of his or her practice, as defined by law, and if the drug is approved for use by the federal Food and Drug Administration.

(b) Controlled substances shall be prescribed pursuant to the requirements of federal laws and regulations and the requirements set forth in Chapter 4 (commencing with Section 11150) of Division 10 of the Health and Safety Code.

(c) For purposes of the open drug formulary pilot project as established by this article, there shall be no requirement that prior authorization be obtained by a provider before prescribing any drug to a beneficiary if the provider determines the drug to be a medical necessity in the treatment of the beneficiary.

(d) For purposes of the open drug formulary pilot project as established by this article, a drug determined to be a medical necessity shall be one whose use in the treatment is reasonable and consistent with the objectives of the federal Medicaid Act as set forth in Title XIX of the Social Security Act (42 U.S.C. Sec. 1396 et seq.).

SEC. 8. Section 14195.6 of the Welfare and Institutions Code, as added by Chapter 1636 of the Statutes of 1984, is amended to read:

14195.6. The department shall develop a request for a proposal, and may award a sole source contract to an expert contractor to implement the standards and practices established by the Medi-Cal Therapeutic Drug Utilization Review System through use of a therapeutically oriented drug utilization review system by January 1, 1986. The contract shall include a requirement to analyze the therapeutic outcomes of the Medi-Cal Drug Program using the California MMIS for the period of July 1, 1984, through the date the standards established by this article are implemented. Thereafter, the contractor shall submit quarterly reports to the department and the Legislature analyzing therapeutic outcomes in a manner that will allow comparisons with the experience analyzed for the period of July 1, 1984, until implementation of the standards established by this article. The analysis shall include reports on at least the following items:

(a) Compatibility of medication to diagnosis.

(b) Overprescribing of drugs.

(c) Prescription of contraindicated or incompatible drugs.

(d) Estimates of hospitalization and institutionalization in skilled nursing facilities or intermediate care facilities occurring because of the factors specified in subdivisions (a) to (c), inclusive.

(e) Estimates of hospitalization and institutionalization in skilled nursing facilities or intermediate care facilities avoided due to changes in drug regimes which result from compliance by prescribers and beneficiaries with the standards established pursuant to this article. The committee shall perform its functions for the pilot programs established pursuant to Section 14195.2 in addition to its other responsibilities under this article.

The department is authorized to require the contractor to phase in implementation of the prescriber notification, as established by protocols for informing prescribers of inappropriate prescribing.

SEC. 9. Section 14195.8 of the Welfare and Institutions Code, as added by Chapter 1636 of the Statutes of 1984, is amended to read:

14195.8. The Auditor General shall select an appropriate contractor to provide an evaluation of the Therapeutic Drug Utilization Review System and pilot project established by this article with respect to all of the following issues:

(a) The impact on institutionalization of Medi-Cal eligibles by operation of the Medi-Cal therapeutic drug utilization review process.

(b) The cost impact of the Medi-Cal therapeutic drug utilization review process.

(c) Comparison of the impacts studied under subdivisions (a) and (b) between those areas of the state in which the open drug formulary projects established by Section 14195.2 operate and the rest of the state.

(d) The evaluation report shall be submitted to the department and the Legislature no later than May 1, 1989, with recommendations whether:

(1) The Therapeutic Drug Utilization Review System established by this article is cost-effective and should be continued.

(2) The combination of an open formulary and therapeutic drug reviews is superior with respect to therapeutic outcome and cost effectiveness in comparison to the operation of therapeutic drug review in conjunction with a restricted formulary.

SEC. 10. Section 14196.1 is added to the Welfare and Institutions Code, to read:

14196.1. The department shall submit to the Legislature its plans for implementation of the pilot projects by September 31, 1985, and shall commence operation of these projects by January 1, 1986.

SEC. 11. The State Department of Health Services shall adopt any regulations as are necessary to implement the provisions of this act. These regulations shall be adopted 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 and, for the purposes of the Administrative Procedure Act, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare and shall not be subject to the review, approval, modification, or repeal by the Office of Administrative Law pursuant to any provisions of Chapter 3.5.

Any provision of this act which is in conflict with any federal statute or regulation shall be inapplicable to the extent of the conflict, but the remainder of the provisions shall be unaffected to the extent no conflict exists.

The department shall seek all federal waivers necessary to implement the provisions of this act. The provisions for which 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.

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

SEC. 12. 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 as quickly as possible any confusion which may arise from duplicate articles in the Welfare and Institutions Code, it is necessary that this act take effect immediately.

CHAPTER 136

An act to amend Section 8 of Chapter 1654 of the Statutes of 1984, relating to flood control, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Section 8 of Chapter 1654 of the Statutes of 1984 is amended to read:

Sec. 8. The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the Department of Water Resources for maintenance or improvement of nonproject levees pursuant to Part 9 (commencing with Section 12980) of Division 6 of the Water Code. An amount not to exceed one hundred sixty

thousand dollars ($160,000) of this appropriation may be used by the department for administrative costs.

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:

The Legislature has declared its intent to reimburse from the General Fund an eligible local agency pursuant to Part 9 (commencing with Section 12980) of Division 6 of the Water Code for costs incurred in any year for the maintenance or improvement of nonproject levees. The program cannot be implemented unless a reasonable part of the sum appropriated may be used by the Department of Water Resources for administrative costs. In order, therefore, to insure the immediate implementation of this vitally needed flood control program at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 137

An act to amend Sections 4938, 4955, 4970, and 4971 of, to add Section 4959 to, and to repeal and add Section 4973 of, the Business and Professions Code, relating to acupuncture, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Section 4938 of the Business and Professions Code is amended to read:

4938. The committee shall issue a certificate to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of (1) an educational and training program or (2) a tutorial program in the practice of an acupuncturist which is approved by the committee.

(c) An applicant who has satisfied paragraph (1) of subdivision (b) and was issued a diploma to practice acupuncture by a school not located in the United States shall complete a period of clinical service in California, prior to taking the certification examination, which does not exceed nine months under the supervision of a certified acupuncturist approved by the committee in a manner satisfactory to the committee. The supervising acupuncturist shall evaluate the applicant at periods determined by the committee and report his or her findings to the committee.

(d) Passes an examination administered by the committee which tests the applicant's ability, competency, and knowledge in the practice of an acupuncturist. The examination shall include a practical examination of the skills required to competently engage in such practice. Such examination shall be prepared and administered in accordance with regulations adopted by the committee.

(e) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

Each applicant who qualifies for a certificate shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial certification fee.

SEC. 2. Section 4955 of the Business and Professions Code is amended to read:

4955. The committee may deny, suspend, or revoke, or impose probationary conditions upon, the certificate of any acupuncturist if he or she is guilty of unprofessional conduct which has endangered or is likely to endanger the health, safety, or welfare of the public.

Such unprofessional conduct shall include the following:

(a) Securing a certificate by fraud or deceit.

(b) Committing a fraudulent or dishonest act as an acupuncturist resulting in substantial injury to another.

(c) Using any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that such use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

(d) Conviction of a crime substantially related to the qualifications, functions, or duties of an acupuncturist, the record of conviction being conclusive evidence thereof.

(e) Improper advertising.

(f) Violating or conspiring to violate the terms of this chapter.

(g) Gross negligence.

(h) Repeated negligent acts.

(i) Incompetence.

SEC. 3. Section 4959 is added to the Business and Professions Code, to read:

4959. (a) The committee may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the committee, to direct any licensee found guilty of unprofessional conduct to pay to the committee a sum not to exceed actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the committee. When the committee does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(c) When the payment directed in the committee's order for payment of costs is not made by the licensee, the committee may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the committee may have as to any licensee directed to pay costs.

(d) In any judicial action for the recovery of costs, proof of the committee's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(e) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the Acupuncture Fund.

SEC. 4. Section 4970 of the Business and Professions Code is amended to read:

4970. The amount of fees prescribed for certified acupuncturists shall be those set forth in this section unless a lower fee is fixed by the committee in accordance with Section 4972:

(a) The application fee shall be seventy-five dollars ($75).

(b) The examination and reexamination fees shall be two hundred dollars ($200).

(c) The initial certification fee shall be three hundred twenty-five dollars ($325), except that if the certificate will expire less than one year after its issuance, then the initial certification fee shall be an amount equal to 50 percent of the initial certification fee.

(d) The biennial renewal fee shall be three hundred twenty-five dollars ($325) and in the event a lower fee is fixed by the committee, shall be an amount sufficient to support the functions of the board and committee in the administration of this chapter.

(e) The delinquency fee is twenty-five dollars ($25).

(f) The application fee for the approval of a school or college under Section 4939 shall be three thousand dollars ($3,000).

SEC. 5. Section 4971 of the Business and Professions Code is amended to read:

4971. The amount of fees prescribed for acupuncture tutorial programs shall be as follows:

(a) The application and registration fee to supervise an acupuncture trainee is two hundred dollars ($200).

(b) The annual renewal fee for approval to supervise an acupuncture trainee is fifty dollars ($50).

(c) The application fee for an acupuncture trainee is twenty-five dollars ($25).

(d) The annual renewal fee for an acupuncture trainee is ten dollars ($10).

(e) The delinquency fee is 50 percent of the renewal fee.

SEC. 6. Section 4973 of the Business and Professions Code is repealed.

SEC. 7. Section 4973 is added to the Business and Professions Code, to read:

4973. A fee for the inspection or reinspection of a school or

college of acupuncture for purposes of approval or continued approval shall be charged at an amount to recover the direct costs incurred by the committee in conducting such an inspection and evaluation of the school or college.

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:

To ensure that the Acupuncture Examining Committee has enough funds with which to properly enforce and administer the Acupuncture Certification Act, it is necessary that this act go into immediate effect.

CHAPTER 138

An act to amend Section 15010.7 of the Corporations Code, relating to partnerships.

[Approved by Governor July 1, 1985. Filed with Secretary of State July 1, 1985.]

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

SECTION 1. Section 15010.7 of the Corporations Code is amended to read:

15010.7. A statement of partnership, as authorized in Section 15010.5, may also contain restrictions upon the authority of individual partners to convey, encumber, or transfer interest in partnership real property, so long as it is otherwise valid under the law, and it is signed, acknowledged, and verified by all of the partners.

Such a statement, provided that it is signed, acknowledged, and verified by all of the partners and so long as title to the real property appears in the partnership name or otherwise indicates ownership by the partnership, shall constitute constructive notice of the contents of the restrictions and shall be conclusive as to any real property located in each county in which such a statement, or certified copy thereof, is duly recorded. Such a statement shall remain effective until there is recorded, with respect to the same partnership, a subsequent statement of partnership, signed, acknowledged, and verified by all the existing partners, as provided in Section 15010.5.

CHAPTER 139

An act to add Article 7.5 (commencing with Section 16418) to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, and to amend Sections 12.30 and 12.50 of Senate Bill 150 (the Budget Act of 1985) of the 1985–86 Regular Session, relating to state funds, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1985. Filed with Secretary of State July 1, 1985.]

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

SECTION 1. Article 7.5 (commencing with Section 16418) is added to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

Article 7.5. Special Fund for Economic Uncertainties

16418. (a) The Special Fund for Economic Uncertainties is hereby created in the State Treasury and is continuously appropriated for the purposes of this section. The contingency reserve for economic uncertainties established within the General Fund by Section 12.3 of the Budget Act of 1980 is hereby discontinued, and any balance in that reserve shall be transferred to the Special Fund for Economic Uncertainties. This special fund represents a reserve fund within the meaning of Section 5 of Article XIII B of the California Constitution. Notwithstanding Sections 16310 and 16314, the Controller may transfer as necessary from the Special Fund for Economic Uncertainties or from the special accounts in the General Fund to the General Fund such amounts as are needed to meet cash needs of the General Fund. The Controller shall return all such moneys so transferred without payment of interest as soon as there are sufficient moneys in the General Fund.

(b) The Controller shall transfer from the Special Fund for Economic Uncertainties to the unappropriated balance of the General Fund an amount necessary to eliminate any General Fund deficit as of the end of each fiscal year, commencing as of June 30, 1985. The amount of transfer for each fiscal year shall be determined on the basis of the State of California Preliminary Annual Report--Accrual Basis, for such fiscal year. Any subsequent adjustments shall be determined jointly by the Controller and the Director of Finance.

(c) For budgeting and accounting purposes, any appropriations heretofore or hereafter made specifically from the Special Fund for Economic Uncertainties, other than appropriations contained in this section, shall be deemed an appropriation from the General Fund. For year-end reporting purposes, the Controller shall add the

balance in the Special Fund for Economic Uncertainties to the balance in the General Fund so as to show the total moneys then available for General Fund purposes.

(d) Notwithstanding Section 13340, there is hereby appropriated from the General Fund, without regard to fiscal years, for transfer by the Controller to the Special Fund for Economic Uncertainties as of the end of each fiscal year, the lesser of the following amount:

(1) The unencumbered balance in the General Fund.

(2) The difference between the state's "appropriations subject to limitation" for the fiscal year then ended and its "appropriation limit" as defined in Section 8 of Article XIII B of the California Constitution and established in the Budget Act for that fiscal year, as jointly estimated by the Legislative Analyst's office and the Department of Finance.

SEC. 2. Section 12.30 of SB 150 of the 1985–86 Regular Session, the Budget Act of 1985, is amended to read:

Sec. 12.30. (a) The contingency reserve for economic uncertainties established within the General Fund by Section 12.3 of the Budget Act of 1980 is hereby continued in existence. This reserve represents a reserve fund within the meaning of Section 5 of Article XIII B of the California Constitution. Notwithstanding Sections 16310 and 16314 of the Government Code, the Controller, may transfer as necessary from the contingency reserve for economic uncertainties or from the special accounts in the General Fund to the General Fund such amounts as are needed to meet cash needs of the General Fund. The Controller shall return all such moneys so transferred without payment of interest as soon as there are sufficient moneys in the General Fund.

(b) There is hereby appropriated from the General Fund for transfer by the Controller upon order of the Director of Finance, to the contingency reserve for economic uncertainties, an amount necessary to bring the balance of the reserve up to one billion forty million one hundred thousand dollars ($1,040,100,000) as of July 1, 1985.

(c) For budgeting and accounting purposes, any appropriations heretofore or hereafter made specifically from the contingency reserve for economic uncertainties by this act or any other act, other than appropriations contained in this section, shall be deemed an appropriation from the General Fund.

(d) Notwithstanding the provisions of paragraph (c), the appropriations contained in AB 36 and SB 20 of the 1985–86 Regular Session shall be deemed to be appropriations from the Contingency Reserve for Economic Uncertainties in the 1985–86 fiscal year.

SEC. 3. Section 12.50 of SB 150 of the 1985–86 Regular Session, the Budget Act of 1985, is amended to read:

Sec. 12.50. (a) The contingency reserve for economic uncertainties established within each special fund by Section 12.35 of the Budget Act of 1981 is hereby continued in existence. These reserves represent reserve funds within the meaning of Section 5 of

Article XIII B of the California Constitution.

(b) There is hereby appropriated from each reserve account in each special fund, an amount sufficient to fund any appropriation made by this act or other statute from the fund in which the reserve account is established.

(c) There is hereby appropriated on June 30, 1986, the unappropriated balance in each special fund to the reserve account in that special fund.

(d) The provisions of this section shall not apply to the Special Fund for Economic Uncertainties.

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 save the unneeded expenditure of several million dollars annually that occurs under existing procedures relating to the transfer of funds, it is necessary that this act take effect immediately.

CHAPTER 140

An act to add Article 4 (commencing with Section 18415) to Chapter 5 of Division 7 of the Financial Code, relating to industrial loan companies, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Article 4 (commencing with Section 18415) is added to Chapter 5 of Division 7 of the Financial Code, to read:

Article 4. Possession, Conservatorship, and Liquidation by the Commissioner

18415. The commissioner may take possession of the property and business of any industrial loan company and retain possession until the company resumes business or its affairs are liquidated if any of the following grounds exist:

(a) The capital of an industrial loan company is impaired.

(b) An industrial loan company has violated its articles of incorporation or any law of this state.

(c) An industrial loan company is conducting its business in an unsafe or unauthorized manner.

(d) An industrial loan company refuses to submit its books, papers and affairs to the inspection of any examiner.

(e) An officer of any industrial loan company refuses to be

examined upon oath touching the concerns of such industrial loan company.

(f) An industrial loan company has suspended payment of its obligations.

(g) An industrial loan company is in such condition that it is unsound or unsafe for it to transact business.

(h) An industrial loan company neglects or refuses to observe any order of the commissioner made pursuant to this division, unless the enforcement of such order is restrained in a proceeding brought by the industrial loan company.

(i) An industrial loan company fails to participate as a member of Thrift Guaranty Corporation of California in accordance with Chapter 7 (commencing with Section 18475) or fails to pay any assessment levied pursuant thereto within the time specified.

(j) A member industrial loan company of Guaranty Corporation refuses to permit Guaranty Corporation, its appointed certified public accountant or public accountant, or specialized committees or employees to fulfill their duties under Section 18496.

(k) An industrial loan company has sold or issued investment certificates in violation of the provisions of this division.

(*l*) An industrial loan company has failed to maintain in effect a bond required under the provisions of this division.

(m) Any fact or condition exists which, if it had existed at the time of the original application for authority to organize and establish a corporation to engage in the industrial loan business reasonably would have warranted the commissioner in disapproving the application.

If the commissioner takes possession of the business and property of an industrial loan company, the company, with the consent of the commissioner, may resume business upon prescribed conditions.

18415.1. Whenever the commissioner has taken possession of the property and business of an industrial loan company, that industrial loan company, within 10 days after the taking, if it deems itself aggrieved thereby, may apply to the superior court in the county in which the head office of the industrial loan company is located to enjoin further proceedings. The commissioner may exercise all powers granted by this article during the 10-day period after taking possession of the property and business of the industrial loan company. The court, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing and a determination of the facts upon the merits may dismiss the application or enjoin the commissioner from further proceedings and direct the commissioner to surrender the property and business to the industrial loan company, or make such further order as may be just.

18415.2. An appeal may be taken from the judgment of the court by the commissioner or by the industrial loan company in the manner provided by law for appeals from the judgment of a superior court.

18415.3. (a) Whenever the net worth of an industrial loan company, exclusive of its good will, is less than 90 percent of the aggregate sum of its outstanding investment certificates, exclusive of those hypothecated with the company issuing them, divided by the fraction which is its investment certificates ratio permitted by the commissioner, the commissioner shall by written order direct the company to make good the alleged deficiency of new worth. Pursuant to the commissioner's orders, the company's net worth shall be at least 100 percent of the aggregate sum of its outstanding investment certificates, exclusive of those hypothecated with the company issuing them, divided by the fraction which is its investment certificates ratio permitted by the commissioner.

(b) If the company fails to cure the alleged deficiency of net worth within the commissioner's specified time, not to exceed 120 days, the commissioner may take possession of the company's property and business. If the alleged deficiency is not cured within 120 days of the order, the commissioner shall take possession of the company's property and business.

18415.4. The commissioner may also, upon the request of the board of directors of a company, take possession of the property and business of a company and as conservator, take such action as the commissioner deems proper.

18415.5. Upon taking possession of the property and business of any industrial loan company, the commissioner shall give notice of that fact to all persons holding or having in their possession any assets of the company. The notice required by this section shall not be deemed to be a prerequisite to the taking of possession of the property and business of the industrial loan company. No person knowing of the taking, or who has been notified thereof, shall have a lien or charge upon any assets of the company for any payment, advance or clearance thereafter made, or for any liability thereafter incurred.

Notice is deemed given when the commissioner has either made personal service of the notice, or mailed the notice to the person by certified mail.

18415.6. Any officer, agent, employee, director, or stockholder of a company who refuses to comply with the demand for possession issued under Section 18415 shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000) or imprisonment not exceeding one year or by both such fine and imprisonment.

18415.7. On demand of the commissioner, it shall be the duty of the sheriff of any county of the state, and of the police department of any municipal corporation therein, to furnish the commissioner with deputies, patrolmen, or officers as may be necessary to assist the commissioner in making and enforcing any seizure under Section 18415.

18415.8. Upon taking possession of the property and business of any company, the superior court for the county in which the head

office of the company is located shall have exclusive original jurisdiction of all proceedings relating thereto and of any action or other proceedings brought under the provisions of this chapter. All papers relating to the taking of possession, including copies of the certificate of appointment of any special deputy, shall be filed and be made a part of the record of the proceeding within 45 days of the date of taking possession. All papers filed with the superior court, including inventories required to be filed, shall be made a part of the record of the proceeding without the payment of any additional fees therefor.

18415.9. At any time after the order taking possession issued under Section 18415 has been filed with the court, the commissioner may remove the principal office of the person proceeded against to the City and County of San Francisco or to the City of Los Angeles. In the event of removal, the court where the proceeding was commenced shall, upon the application of the commissioner, direct the superior court clerk to transmit all of the papers filed therein with that clerk to the Superior Court Clerk of the City and County of San Francisco or of the County of Los Angeles as the case may require. The proceeding shall thereafter be conducted in the same manner as though it had been commenced in the county to which it had been transferred.

18415.10. The commissioner may, at any time, examine under oath any officer, director, agent, employee or stockholder of a company to determine whether or not all property and assets have been transferred or delivered to the commissioner's possession.

18415.11. Upon taking possession of the property and business of any company, the commissioner has authority and the duty to collect all moneys due to the company and to do such other acts as are necessary or expedient to collect, conserve, or protect its assets, property and business. The commissioner shall also proceed to conserve or liquidate the affairs thereof as provided in this chapter.

18415.12. The commissioner may file a petition with the court and the court shall issue such injunctions or orders, as may be deemed necessary, to prevent any of the following occurrences:

(a) Interference with the commissioner or the proceeding.

(b) The institution of any actions or proceedings, or the prosecution of any actions or proceedings already commenced.

(c) Waste of assets of the entity.

(d) The obtaining of preferences, judgments, attachments or other liens against the company or its assets.

(e) The making of any levy against the company or its assets.

(f) The sale or deed for nonpayment of taxes or assessments levied by any taxing agency of any of the following:

(1) Property owned by the company.

(2) Property upon which the company holds an encumbrance.

(3) Property upon which the company has prior thereto commenced an action to foreclose any deed of trust or mortgage or has exercised the power of sale under any trust deed or mortgage

which sale or foreclosure proceedings have not yet been completed or upon which no trustee's deed or judgment of court or sheriff's certificate of sale has been issued.

"Taxing agency," as used in this section, has the same meaning as defined in Section 121 of the Revenue and Taxation Code. The injunctions or orders authorized by this subdivision may be modified, dissolved, or rescinded by the court on motion of the commissioner, the Controller, or the person charged with the collection of taxes or assessments on such property. The recording in the office of the county recorder of any county in the state of an order or injunction issued pursuant to this section, shall constitute service of the order or injunction upon any taxing agency with respect to property or interest therein located in such county.

18415.13. After the taking of possession of the property and business of any company, the commissioner may terminate or adopt any executory contract to which the company may be a party, including leases of real or personal property. The termination or adoption shall be made within six months after obtaining knowledge of the existence of the contract or lease. Any provision in the contract or lease which provides for damages or cancellation fees upon termination shall not be binding on the commissioner or the company seized. The commissioner and the company shall only be liable for actual damages and in no event in excess of one thousand dollars ($1,000). Any claim must be filed within 30 days of the date of the termination.

18415.14. The commissioner may proceed against any debtor or alleged debtor by way of summary procedure or by order to show cause issued by the court upon application by the commissioner.

18415.15. The commissioner may make examinations of the seized company and review the activities of any conservator or liquidator.

18415.16. The actual cost of any examination, investigation or services, including the actual amount of salary or other compensation paid to the persons making the examination, investigation or rendering services and the overhead costs in connection therewith, as fixed by the commissioner, shall be paid out of the assets of the company.

18415.17. The determination by the commissioner to liquidate a company, evidenced by filing written notice of the determination with the court, operates to stay or dissolve all actions or attachments instituted or levied within 90 days next preceding the taking of possession of the company by the commissioner, and pending the process of liquidation, no attachment or execution shall be levied or lien created upon any of the property of the company.

18415.18. Upon taking possession of the property, and business of a company in any proceeding under this article, the commissioner shall have the power to do all of the following:

(a) Appoint one or more special deputy commissioners as his or her agent or agents with the powers specified in the certificate of

appointment to assist in the duty of conservation or of liquidation and distribution.

(b) Employ the Attorney General as counsel or employ private counsel as may be deemed necessary to assist the commissioner in the performance of his or her duties under this chapter. Appointment of private counsel shall be made only with the consent of the Attorney General. The compensation of that counsel shall be fixed by the commissioner, subject to the approval of the court.

(c) Set the compensation of a special deputy commissioner.

(d) Require from each special deputy commissioner and from each assistant such security for the faithful performance of their duties as the commissioner may deem proper.

18415.19. All expenses of taking possession of, conserving, conducting, liquidating, disposing of or otherwise dealing with the business and property of any company under this article shall be paid out of the assets of that company. Those expenses shall include, among other things, the compensation of special deputy commissioners, clerks and assistants and the actual cost of any services attributable to the conservatorship or liquidation performed by the commissioner and staff, including the actual amount of salary or compensation paid to the person performing the services and overhead costs in connection therewith as fixed by the commissioner.

18415.21. Any transaction occurring within six months of the date of taking possession shall be voidable by the conservator or liquidator if the transaction has the effect of giving to, or enabling any creditor of, the company, any affiliate of the company, any officer, director, stockholder, employee or any relative thereof, to obtain a preference over any other creditor of the company.

18415.22. No obligation may be purchased or discounted under any agreement between the company and any person involving the purchase or discount of obligation from the person, with or without recourse, from the moment of taking possession pursuant to Section 18415. Any guarantees, recourse or repurchase agreements given at the time of purchase, or discount of any obligation prior to the date of taking possession, shall continue to be binding on the person. Any reserves, withholds or other security held by the company under the terms of the agreement shall be considered liabilities of the company in the general creditor classification and may not be used as offset against any obligation purchased or discounted under the agreement. No distribution of assets shall be made on these liabilities until the obligations purchased or discounted under the agreement have been satisfied.

In case of sale of the obligations by the liquidator, the reserves, withholds or other security shall remain as a liability to be paid off in the normal course of liquidation.

18415.23. No attachment or execution shall be issued against the property of any company before final judgment in any action or proceeding in any court.

18420. The commissioner, as conservator or liquidator, after taking possession of the company, shall, in his or her name, in the name of the company, in the name of both, or otherwise, have authority to do all of the following:

(a) Collect all obligations and money due the company.

(b) Exercise and possess all the rights, powers and privileges of the company, its officers and directors.

(c) Institute, prosecute, maintain, defend, intervene, and otherwise participate in any and all actions, suits, or other legal proceedings by and against the conservator or liquidator or company, or in which the conservator, the company or its creditors or debtors, or any of them, have an interest, and in every way to represent the company, its creditors, and debtors.

(d) Execute, acknowledge, and deliver any and all deeds, contracts, leases, assignments, bills of sale, releases, extensions, satisfactions, and other instruments necessary or proper for any purposes.

(e) Be the custodian of all moneys collected by the commissioner or coming into his or her possession in the course of any proceeding under this chapter, but he or she may deposit those moneys, or any part thereof, in a bank insured by the Federal Deposit Insurance Corporation.

(f) Invest or reinvest such portions of funds and assets of the company, in a manner as he or she may deem suitable for the best interests of the creditors of the company.

(g) To revise, refinance, extend, or settle any loan or obligation upon those terms and conditions as he or she may deem to be most advantageous to the company.

(h) To sell, compound, compromise or assign for the purpose of collection upon those terms and conditions he or she deems best, any bad or doubtful debts due the company.

(i) To compound, compromise, or in any manner negotiate settlements of claims against the company upon those terms and conditions as he or she shall deem to be most advantageous to the company.

(j) To sell, acquire, hypothecate, encumber, lease, improve, abandon, or otherwise dispose of or deal with any real or personal property which has come into ownership of the company by way of repossession, foreclosure, execution, suit or by other such means on a basis of reasonable market value, without notice, for cash, on terms, or upon such other terms and conditions as he or she may deem proper.

(k) To settle, compromise, or obtain the release of, for cash or other consideration, claims and demands against the company or the conservator.

(*l*) To sell for cash or on terms, exchange, or otherwise dispose of, in whole or in part, any or all the assets and property of the company, real, personal, and mixed, tangible and intangible, of any nature.

(m) Execute, acknowledge, and deliver any and all deeds,

contracts, leases, assignments, bills of sale, releases, extensions, satisfactions, and any other instruments necessary or proper for any purposes, including, but not limited to, the effectuation, termination, or modification of any sale, lease, or transfer of real, personal, or mixed property, or that shall be necessary or proper to liquidate or carry on the business of the company. Any deed or other instrument executed pursuant to the authority hereby given shall be as valid and effectual for all purposes as if it had been executed as the act and deed of the company.

(n) Pay out and expend such sums as the commissioner deems necessary or advisable including the following:

(1) To pay off or discharge any taxes, assessments, liens, claims, or charges of any nature against the company, the conservator or liquidator, any asset or property of any nature of the company, or upon any asset or property on which the company or conservator or liquidator has an interest of a value of any nature.

(2) For or in connection with the preservation, maintenance, conservation, protection, remodeling, repair, rehabilitation, or improvement of any asset or property of any nature of the company.

(3) To pay all costs and expenses of the conservatorship or liquidation and all costs of carrying out or exercising the commissioner's rights, powers, privileges, and duties as conservator.

(4) To pay valid creditor obligations, interest owed on debts, debts incurred during conservatorship or liquidation and all other debts of the company or conservatorship or liquidation of any nature.

(5) To pay all costs and expenses in the operation of the conservatorship or liquidation of the company.

(o) Do such things, and have such rights, powers, privileges, immunities and duties, whether or not otherwise granted in this chapter, as shall be authorized, directed, conferred, or imposed from time to time in specific cases by order of the court.

18420.1. No transaction involving real or personal property, investment or reinvestment of funds or assets, or settlement or compromise of pending lawsuits shall be made without first obtaining permission of the court, and then only in accordance with such terms as the court may prescribe, when either of the following exist:

(a) The principal sum of any obligation due the company or settlement or compromise of a pending lawsuit exceeds the sum of fifteen thousand dollars ($15,000).

(b) The market value of any real or personal property, except obligations due the company, exceeds the sum of ten thousand dollars ($10,000).

18420.2. The commissioner may, with ex parte approval of the court, sell all or any part of the company's assets to another industrial loan company, to a bank, to a savings and loan association, to Guaranty Corporation, or to an instrumentality of the United States government. In like manner, the commissioner may borrow from Guaranty Corporation, an instrumentality of the United States

government, or a private insurer which insures or guarantees the company's investment certificates, any amount necessary to facilitate the assumption of investment certificate liabilities by a newly chartered or existing industrial loan company, assigning any part or all of the assets of the company as security for that loan.

18420.5. The commissioner may appoint a person to act as conservator or liquidator of the company. The person appointed may be Thrift Guaranty Corporation of California. If the company's outstanding thrift obligations are insured by an instrumentality of the United States government, the commissioner may appoint that instrumentality to act as conservator or liquidator of the company. Subject to the other provisions of this division, a conservator or liquidator, while in possession of the property and business of a company, has the same powers and rights and is subject to the same duties and obligations as the commissioner while in possession of the property and business of a company. During such time, the rights of the company and of all persons with respect thereto, subject to the other provisions of this chapter, are the same as if the commissioner had taken possession of such properties and business, except that the commissioner may limit those powers and rights as he or she may deem necessary.

18420.6. The commissioner shall have the authority to terminate the appointment of a conservator or liquidator whenever the commissioner deems it in the best interest of the company, its creditors, and investors. The commissioner shall file a copy of the notice of termination with the court.

18420.7. The commissioner may require a conservator or liquidator to provide such bond as the commissioner deems proper. The conservator or liquidator shall receive a salary, fixed by the commissioner, in an amount no greater than that which would be paid by the commissioner to a special deputy commissioner in charge of the liquidation of the company.

18425. If at any time after taking possession of the property and business of a company it shall appear to the commissioner that it would be futile to proceed as conservator with the conduct of the business of the company, the commissioner may order the company to be liquidated. A copy of the liquidation order shall be filed with the clerk of the superior court.

18425.1. The liquidator shall cause notice to be given by publication for four successive weeks in a newspaper of general circulation at or near the principal place of business in the state of the company, to all persons having claims against the company, other than investment certificate holders, whether or not an action is pending to enforce any claim for demand, requiring them to present and file their claims and make legal proof thereof at a place and within a time designated in the notice. The time shall not be less than 90 days after the first publication of the notice. The notice shall also state that all claims other than those of investment certificate holders appearing upon the books or records of the company and any claims,

whether or not an action is pending to enforce any such claim or demand, shall be forever barred if not filed within the time designated. The liquidator shall also mail a similar notice to all persons whose names appear as creditors upon the books of the company and any person who has an action pending to enforce a claim or demand whose address appears upon the books or records of the company and shall enclose therewith a printed form or notice of claim.

18425.2. All claims, demands, or causes of action of creditors, and persons other than investors against any property owned or held by it in trust, or otherwise, must be presented to the liquidator in writing, verified by the claimant, or someone on his or her behalf, within the period specified in the notice for the presentation of claims, whether or not an action is pending to enforce any such claim or demand. The liquidator shall not approve any claim not so presented, and any such claim, demand, or cause of action not so presented is forever barred.

18425.3. If the liquidator doubts the validity of any claim, the liquidator may reject the claim and serve notice of rejection upon the claimant either by certified mail or personally. A notice of rejection given by mail, addressed to the claimant at the address set forth in the claim, shall constitute sufficient notice of the rejection. Any action upon a claim so rejected must be brought within 30 days after the mailing of the notice or personal service of the notice in the court in which the liquidation proceeding is pending for an order to show cause why the claim should not be allowed. Failure to bring such action within 30 days to enforce the payment of or establish any rejected claim shall forever bar any such action.

18425.4. A claim shall set forth, under oath, on the form prescribed by the commissioner, all of the following:

(a) The particulars of the claim, and the consideration for the claim.

(b) Whether the claim is secured or unsecured, and, if secured, the nature and amount of the security.

(c) The payments, if any, made thereon.

(d) That the sum claimed is justly owing from such person to the claimant.

(e) That there is no offset to the claim.

(f) Such other data or supporting documents as the liquidator requires.

18425.5. When an investment certificate holder is also a debtor, the liquidator may offset any balance due the investment certificate holder against the debt and the interest due on that debt up to the date of offset, in an amount not to exceed the amount of the debt or the amount of the thrift obligation guaranteed by the Thrift Guaranty Corporation of California, whichever is less.

18425.6. The amount of a claim of an investment certificate holder shall be the amount which the investment certificate holder would have been entitled to withdraw as of the date of taking

possession, pursuant to Section 18415, plus interest thereon accrued to that date, without regard to whether the account is subject to any pledge. In the case of an account with a fixed or minimum term or a qualifying or notice period that has not expired as of the date of taking possession, interest shall be computed as if the account had been withdrawn on that date without penalty or reduction in interest.

The liquidator shall give notice to each investment certificate holder of the amount of his or her claim and the investment certificate holder shall not be required to file a claim unless he or she disputes the amount of the liquidator's determination.

18425.7. When the time fixed for the presentation of claims has expired, the liquidator shall make in duplicate a full and complete list of all claims presented, including and specifying those claims that have been rejected by the liquidator, and a list of all claims of investment certificate holders as shown by the books or records of the company, and shall file one copy of the list in the commissioner's office and one with the clerk of the superior court in which the liquidation proceedings are being held. Before each application to the court for leave to declare a dividend, the liquidator shall file a supplemental list of claims presented since the last preceding list was filed, including and specifying the claims as have been rejected by the liquidator. The list of claims and of claims of investment certificate holders as shown by the books or records of the company shall be open for inspection at all reasonable times.

18425.8. Objections to any claim not rejected by the liquidator may be made by any person interested by filing his or her objections, in writing, with the liquidator, who shall present the objections to the court. The court shall dispose of the objections or may order reference for that purpose, and should the objections to any claim be sustained by the court or by the referee, that claim shall not be allowed by the liquidator until the claimant has established his or her claim by judgment. Any objections to a claim shall be filed within 60 days from the date of filing of the schedule of claims as required by this article with the court or be forever barred.

18425.9. The liquidator, with the approval of the court, may pay one or more dividends to investment certificate holders prior to the expiration of the time for filing claims. After the time for filing of claims has elapsed, the liquidator, after obtaining approval of the court, may pay one or more dividends upon all approved claims out of the funds remaining in the liquidator's possession after the payment of expenses and after setting aside an amount to pay creditors whose claims have been rejected and whose time for filing an application to show cause under this article has not yet elapsed or whose application is still pending. At any time after the expiration of one year from the date of the first publication of notice of creditors, and with court approval, the liquidator may pay a final distribution which shall consist of the remaining funds available for distribution, being distributed pro rata to all approved creditor claims.

18425.10. (a) Claims allowed in a proceeding under this article shall be given preference in the following order:

(1) All costs and expenses of administration of conservatorship and liquidation.

(2) Taxes due to the State of California.

(3) Claims having preference by the laws of the United States and by laws of this state.

(4) All claims of creditors, including contractual claims for interest to the date of payment, whose claims are fully secured.

(5) Claims of investment certificate holders.

(6) Claims of general creditors.

(7) Claims on obligations subordinated to the claims of investment certificate holders and general creditors.

Paragraphs (5) and (6) apply only in liquidation proceedings, where the commissioner has taken possession of the property and business of the company on or after the effective date of this section, and paragraph (6) shall apply only with respect to persons who become general creditors on or after that date. It is the intent of the Legislature that no change in the law contained in this section shall be construed to affect the rights and obligations of parties with regard to transactions occurring prior to the effective date of this section. It is the intent of the Legislature that the rights and obligations of parties existing prior to the effective date of this section shall be determined by the law in effect prior to the effective date of this section and without application of changes in the law effected by this section.

(b) All approved claims shall bear interest at the rate provided by law or judgments from the date that the commissioner takes possession of the property and business of the company, to the extent funds are available to pay such interest, otherwise interest shall be prorated.

Interest shall be given the same preference as the claim on which it is based, but no interest on any claim shall be paid until all claims within the same class have received the full principal amount of the claim.

(c) Any funds remaining shall be returned to the stockholders of the company pursuant to the provisions of this article.

18425.11. Whenever the commissioner determines to liquidate a company, the commissioner shall cause an inventory of all the assets of the company to be made in duplicate, file the original with the court, and file the duplicate in the commissioner's office.

18425.12. If it appears improbable that anything can be realized from any property of the company and that the cost of maintaining, preserving, or protecting the property would probably be lost, the court may direct the liquidator to abandon the property.

18425.13. If a purchaser of any property or any bad or doubtful debt or claim of a company cannot be obtained and it appears improbable that recovery thereon can be had, and that the cost of action to enforce collection of the same would probably be lost, the

superior court may direct that suit on the debt or claim need not be brought.

18425.14. When the liquidator has fully liquidated all claims other than claims of stockholders, made due provision for any and all known but unclaimed liabilities, excepting claims of stockholders, and paid all expenses of liquidation, the liquidator may file an application for an order for the liquidation of a domestic corporation, or at any time thereafter, the commissioner may apply for, and the court shall make, an order dissolving the corporation.

18425.15. Upon the payment of a final dividend in liquidation, the commissioner shall prepare and file with the court a full and final statement of the liquidation, including a summary of the receipts and disbursements, and a duplicate of the statement shall be filed in the office of the commissioner. After hearing and approval by the court, the liquidation shall be closed.

18425.16. In making its order approving the commissioner's final statement of the liquidation of the company, the court shall determine the amounts of the liquidating dividends to which claimants are entitled but which then remain unpaid or unclaimed in the hands of the commissioner. The order of the court shall direct the commissioner to deposit those amounts with the Treasurer. All amounts so deposited shall be deemed to be deposited 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 shall be subject to claim or disposition as provided in that chapter.

18425.17. The order of the court approving the final statement on liquidation shall provide for the destruction or other disposition of the books and records of the company or pertaining to the liquidation of the company, and the court may declare the company dissolved as a corporation. The liquidator shall file a copy of the order of dissolution with the Secretary of State.

SEC. 2. In this act, unless the context otherwise requires:

(a) "Commissioner" means the California Commissioner of Corporations.

(b) "Guaranty Corporation" means Thrift Guaranty Corporation of California, a corporation organized under the laws of the State of California.

(c) "Western Community" means Western Community Money Center, a corporation organized under the laws of the State of California.

SEC. 3. The Legislature finds and declares that Western Community has been seized by the commissioner; that thousands of California residents hold investment or thrift certificates issued by Western Community; many such residents are not able to meet their financial obligations because Western Community is unable to honor the obligations and because Guaranty Corporation under law cannot fully utilize its assets to honor its guarantees on all investment or thrift certificates issued by Western Community; many residents face eviction, repossession of property or collection action; the

financial status of many such residents is threatened; and that it is in the interest of this state's economy to act to stabilize this financial crisis. It is in the public interest to assist Guaranty Corporation by appropriating moneys from the Contingency Reserve for Economic Uncertainties and making them available either to provide security for a guarantee supporting and securing a loan to Guaranty Corporation or to provide a loan directly to Guaranty Corporation.

SEC. 4. In order to expedite payments up to the guaranteed amount to investment or thrift certificate holders of Western Community, the commissioner is hereby authorized to execute, on behalf of the State of California, a guarantee of a private loan to Guaranty Corporation, and to pledge, as a source of payment on the guarantee, amounts deposited in the Industrial Loan Special Fund, as security for the guarantee, subject to the following conditions:

(a) The state will guarantee the payment of principal and interest to the person who makes the loan to Guaranty Corporation.

(b) The principal amount of the loan to be guaranteed shall not exceed sixty-three million dollars ($63,000,000).

(c) All proceeds of the loan shall be used to pay all investment or thrift certificate holders of Western Community up to the guaranteed amount of their eligible accounts (see Section 18523 of the Financial Code).

(d) The loan shall be repaid (1) from the proceeds of the liquidation of Western Community and from the assets of Guaranty Corporation to the extent provided below, and (2) if the amounts are not sufficient for timely payment of principal, interest, and any other amounts due in respect of the loan, by the commissioner on behalf of the state pursuant to the guarantee. However, the Thrift Guarantee Fund shall not be reduced below six million dollars ($6,000,000) or 1 percent of guaranteed accounts, whichever is less, in repaying the loan, except that all assets may be used to repay the loan if Guaranty Corporation is either liquidated or ceases providing a guarantee of member investment certificates. At maturity of the guaranteed loan, the full amount of any appropriation deposited in the Industrial Loan Special Fund may be made available for timely payment of principal, interest, and any other amounts due in respect of the loan.

(e) The terms and conditions of the loan to Guaranty Corporation shall be subject to the approval of the commissioner

(f) The commissioner may pledge and grant a security interest in the amounts deposited in the Industrial Loan Special Fund. This pledge and grant may be exclusive and may create a first lien on all amounts in or credited to that fund. No further appropriation or legislative action of any kind shall be required to make amounts available from the fund to satisfy the guaranty obligation, if and when necessary, and the appropriate officers of the state are hereby authorized, if necessary, to take whatever action may be required to make these amounts so available.

SEC. 5. If Guaranty Corporation is unable to negotiate a loan

acceptable to the commissioner within 30 days of the effective date of this act, or if Guaranty Corporation is unable to secure a loan for the amount necessary to pay the full guaranteed amounts described in subdivision (d), the commissioner is authorized to lend some or all of any amount appropriated for deposit in the Industrial Loan Special Fund on behalf of the State of California, to Guaranty Corporation, subject to the following conditions:

(a) The principal amount of the loan shall not exceed sixty-three million dollars ($63,000,000).

(b) The loan shall bear an initial interest rate comparable to the last available daily rate of return earned by the Pooled Money Investment Account on the actual date of transfer of the loan funds. The loan rate shall be adjusted annually to reflect changes in the rate of return earned by the Pooled Money Investment Account.

(c) The term of the loan shall not exceed five years.

(d) All proceeds of the loan shall be used by Guaranty Corporation to pay all investment or thrift certificate holders of Western Community up to the guaranteed amount of their eligible accounts (see Section 18523 of the Financial Code).

(e) Such other terms and conditions as the commissioner considers reasonable to protect the interests of the state.

(f) A loan made pursuant to these provisions may be in combination with the loan described in Section 4 provided that the aggregate amount thereof does not exceed sixty-three million dollars ($63,000,000).

(g) The loan shall be repaid from the proceeds of the liquidation of Western Community and from the assets of Guaranty Corporation. All loan repayments under this section shall be deposited in the Contingency Reserve for Economic Uncertainties established by Section 12.3 of the Budget Act of 1980. However, the Thrift Guarantee Fund shall not be reduced below six million dollars ($6,000,000) or 1 percent of guaranteed accounts, whichever is less, in repaying the loan, except that all assets may be used to repay the loan if Guaranty Corporation is either liquidated or ceases providing a guarantee of member investment certificates.

SEC. 6. The commissioner shall take all steps necessary and appropriate to protect the interests of the state in any and all transactions under this act.

SEC. 7. (a) The commissioner shall administer the provisions of this act.

(b) All state agencies, upon request, shall provide to the commissioner any assistance he may require in carrying out the provisions of this act.

SEC. 8. There is in the State Treasury the Industrial Loan Special Fund, which is hereby created, for the purpose of implementing Sections 4 and 5 of this act.

SEC. 9. In addition to any other appropriation, and notwithstanding subdivision (d) of Section 12.30 of the Budget Act of 1984, the sum of twenty-three million dollars ($23,000,000) is

hereby continuously appropriated from the Contingency Reserve for Economic Uncertainties, as provided in Section 12.30 of the Budget Act of 1984, to the Industrial Loan Special Fund. Funds in the Industrial Loan Special Fund shall be invested by the Treasurer. Interest or increments earned on investment of amounts in the Industrial Loan Special Fund shall be retained in the Industrial Loan Special Fund and shall be available for implementing Sections 4 and 5 of this act. Notwithstanding subdivision (d) of Section 12.30 of the Budget Act of 1984, this appropriation shall not be deemed an appropriation from the General Fund. Upon full discharge of the guarantee authorized by Section 4 of this act or full payment of the loan authorized by Section 5 of this act, all amounts remaining in the Industrial Loan Special Fund shall be returned to the Contingency Reserve for Economic Uncertainties, as provided in Section 12.30 of the Budget Act of 1984. In the event of partial discharge of the guarantee or partial repayment of the loan, any amounts not required by the terms of the guarantee or the terms of the loan remaining in the Industrial Loan Special Fund shall be returned to the Contingency Reserve for Economic Uncertainties, as provided in Section 12.30 of the Budget Act of 1984.

SEC. 10. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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. 12. It is the intent of the Legislature that this bill shall not become operative unless and until Senate Bill 20 of the 1985–86 Regular Session of the Legislature is enacted and becomes operative on or before January 1, 1986.

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:

The recent failure of a large industrial loan company has imposed a threat to the state's economy. It is necessary that this act take effect immediately in order to safeguard the public health, safety, and welfare, to alleviate real danger to lives and property, and to relieve the severe hardship suffered by thousands of California residents.

CHAPTER 141

An act to amend Section 53201 of the Government Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1985. Filed with Secretary of State July 1, 1985.]

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

SECTION 1. Section 53201 of the Government Code is amended to read:

53201. (a) The legislative body of a local agency, subject to such conditions as may be established by it, may provide for any health and welfare benefits for the benefit of its officers, employees, retired employees, and retired members of the legislative body who elect to accept the benefits and who authorize the local agency to deduct the premiums, dues, or other charges from their compensation, to the extent that such charges are not covered by payments from funds under the jurisdiction of the local agency as permitted by Government Code Section 53205.

(b) The legislative body of a local agency may also provide for the continuation of any health and welfare benefits for the benefit of former elective members of the legislative body who (1) served in office after January 1, 1981, and whose total service at the time of termination is not less than 12 years, or (2) have completed one or more terms of office, but less than 12 years, and who agree to and do pay the full costs of the health and welfare benefits.

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 benefits of this act available to former members of legislative bodies of local agencies as soon as possible, this act must take effect immediately.

CHAPTER 142

An act to amend Sections 18023, 18476, 18490, 18491, 18496, 18497, 18500, 18503, 18504, 18506, 18508, 18520, 18523, 18525, and 18535 of, to amend and renumber Sections 18373 and 18521 of, to add Sections 18101.6, 18478, 18479, 18480, 18481, 18510, 18511, 18512, and 18521.5 to, to repeal Section 18368, 18369, 18370, 18371, 18372, 18492, 18520.1, 18522, 18523.2 and 18524 of, and to repeal and add Sections 18505 and 18537 of, the Financial Code, relating to industrial loan companies, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1985. Filed with Secretary of State July 1, 1985.]

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

SECTION 1. Section 18023 of the Financial Code is amended to read:

18023. If an industrial loan company has investment or thrift certificates outstanding, then such company shall not borrow, except by the sale of investment or thrift certificates, in an amount in excess of 300 percent of the amount represented by its outstanding capital stock, surplus and undivided profits, without the written consent of the commissioner. All sums so borrowed in excess of 150 percent of outstanding capital stock, surplus and undivided profits shall be unsecured borrowings or, if secured, approved in writing by the commissioner in advance of the borrowings, and be included as investment or thrift certificates for purposes of computing the ratio allowed under Sections 18319 and 18320.

SEC. 1.5. Section 18101.6 is added to the Financial Code, to read:

18101.6. Companies authorized to engage in the industrial loan business after the effective date of the act which added this section shall have the words "industrial loan company," "thrift company" or "thrift and loan company" as part of the company name included in the articles of incorporation.

SEC. 2. Section 18368 of the Financial Code is repealed.

SEC. 3. Section 18369 of the Financial Code is repealed.

SEC. 4. Section 18370 of the Financial Code is repealed.

SEC. 5. Section 18371 of the Financial Code is repealed.

SEC. 6. Section 18372 of the Financial Code is repealed.

SEC. 7. Section 18373 of the Financial Code is amended and renumbered to read:

18016. "Investment certificates ratio", as used in this division, means the ratio of the aggregate sum of all of the outstanding investment certificates, exclusive of those hypothecated with the company issuing them, of a company to the aggregate amount of its paid-up and unimpaired capital and unimpaired surplus declared not available for dividends pursuant to Section 18319.

SEC. 8. Section 18476 of the Financial Code is amended to read:

18476. (a) "Member" means an industrial loan company required by Section 18100.5 to be a member of Guaranty Corporation. "Member" includes "special member" except where the term "special member" is used in the same section of this chapter.

(b) "Special member" means a member whose thrift obligations are insured by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation or, subject to any rules promulgated by the commissioner, by a private insurer, surety or guarantee corporation acceptable to and approved by the commissioner.

SEC. 9. Section 18478 is added to the Financial Code, to read:

18478. "Fund" means the Guaranty Corporation Fund established pursuant to Section 18535.

SEC. 10. Section 18479 is added to the Financial Code, to read:

18479. "Capital contribution" means the amount each member is required to maintain as an investment in the corporation pursuant to Section 18535.

SEC. 11. Section 18480 is added to the Financial Code, to read:

18480. "Member account" means the total of all amounts credited to a member for paid-in capital contributions, and other credits, net of any charges to that participating member.

SEC. 12. Section 18481 is added to the Financial Code, to read:

18481. "Guaranteed investment certificate" means a thrift obligation guaranteed by Guaranty Corporation pursuant to Section 18523.

SEC. 13. Section 18490 of the Financial Code is amended to read:

18490. When the property and business of a member, other than a special 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 fifty thousand dollars ($50,000) of each thrift obligation specified in Section 18523, 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 10 days from the date the commissioner makes demand for payment. If the total funds available from Guaranty Corporation at that 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 fund from assessments or otherwise. If the thrift obligations are paid, each member's account and special member's account shall be reduced ratably based on the account balance for the total amount paid.

SEC. 14. Section 18491 of the Financial Code is amended to read:

18491. (a) When the property and business of a member, other than a special member, is being liquidated, the commissioner may direct Guaranty Corporation to pay each thrift obligation of the member specified in Section 18523 up to fifty thousand dollars ($50,000). Guaranty Corporation shall pay the thrift obligations at the direction of, and in the amounts directed by, the commissioner within 10 days from the date the commissioner makes demand for payment under this section. If the total funds available from Guaranty Corporation at that 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 those thriftholders in accordance with the directions

of the commissioner as additional funds become available to Guaranty Corporation.

(b) When any thrift obligation is paid up to the guaranteed amount as provided in 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.

(c) Guaranty Corporation shall first receive ratable liquidation proceeds up to the amount paid by Guaranty Corporation to a thriftholder prior to any payment of liquidation proceeds to a thriftholder whose account was in excess of fifty thousand dollars ($50,000).

(d) Each member's account and each special member's account shall be reduced ratably based on the account balance for the total amount paid pursuant to subdivision (a). Liquidation proceeds paid to Guaranty Corporation pursuant to subdivision (c) shall ratably increase each member and special member account based on the account balance for the total amount paid pursuant to subdivision (a).

SEC. 15. Section 18492 of the Financial Code is repealed.

SEC. 16. Section 18496 of the Financial Code is amended to read:

18496. (a) Guaranty Corporation shall have independent authority to approve membership, or suspend or revoke the right to participate in Guaranty Corporation by any member for cause and to submit reports and make recommendations to the commissioner regarding the financial condition of any member and shall also do so if requested by the commissioner. These reports and recommendations shall not be public documents. There shall be no liability on the part of, and no cause of action of any nature shall arise against, Guaranty Corporation or its members, directors, officers, employees or agents, or the commissioner or his or her authorized representatives, for any statements made by them in any reports or recommendations made hereunder.

(b) In order to permit Guaranty Corporation to fulfill its obligations under subdivision (a), upon the written request of Guaranty Corporation the commissioner may furnish to Guaranty Corporation a copy of financial statements or reports filed by a member or an industrial loan company making application to participate in Guaranty Corporation and a copy of the commissioner's analysis of an industrial loan company's receivables. Except for reports filed under Sections 18407 and 18410, such statements and reports shall not be public documents, and the information contained therein shall be privileged, and confidential to Guaranty Corporation for its sole use in carrying out its statutory functions. There shall be no liability on the part of, and no cause of action of any nature shall arise against the State of California, the commissioner or members of the commissioner's staff or the commissioner's authorized representatives, for the release of any information furnished to Guaranty Corporation pursuant to this

subdivision.

(c) By written consent of a majority of its directors, Guaranty Corporation, in order to fulfill its obligations under subdivision (a), may appoint an independent certified public accountant or public accountant to prepare an audit report containing audited financial statements, together with such other information as Guaranty Corporation, in good faith, requires regarding the financial condition of any member. For the purposes of examination and investigation the certified public accountant or public accountant appointed by Guaranty Corporation shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of the member.

(d) By written consent of a majority of its directors, Guaranty Corporation, in order to fulfill its obligations under subdivision (a), may hire or appoint specialized committees or employees to investigate the operations of a member company. Guaranty Corporation may have its specialized employees or committees investigate the affairs and examine the books, accounts, records and files used in the business of the member. For the purposes of examination and investigation the specialized employees and committees of Guaranty Corporation shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of the member.

(e) Costs and expenses for such audit report or special investigation report shall be paid by Guaranty Corporation.

(f) Any person who uses any information obtained under subdivision (b), (c) or (d) for any purpose not authorized by subdivision (a) is guilty of a misdemeanor.

(g) The powers granted to the Guaranty Corporation by this section may not be exercised in connection with special members.

SEC. 17. Section 18497 of the Financial Code is amended to read:

18497. Guaranty Corporation may invest its funds only in readily marketable securities as provided by rules of the commissioner.

Upon request of the commissioner, Guaranty Corporation shall furnish an authorization for disclosure to the commissioner of financial records of such funds pursuant to Section 7473 of the Government Code.

SEC. 18. Section 18500 of the Financial Code is amended to read:

18500. Guaranty Corporation shall have authority to:

(a) Borrow funds when necessary to effectuate the provisions of this chapter.

(b) Make loans to, deposits in, purchase assets or securities of, assume liabilities of, or make contributions to any Guaranty Corporation member to minimize the deficiency payments that might be required under Article 2 (commencing with Section 18490).

(c) Organize a new thrift company to assume the thrift obligations and temporarily perform the functions of the closed company. The commissioner may waive any provision of the

Industrial Loan Law necessary to enable Guaranty Corporation to organize a new thrift company.

(d) Act as a conservator or receiver of a member company that the commissioner has taken possession of.

(e) Guaranty Corporation may use the fund, or any portion of the fund, in exercising its authority.

(f) Employ consultants, advisors, and others to assist Guaranty Corporation in fulfilling its obligations and objectives.

SEC. 19. Section 18503 of the Financial Code is amended to read:

18503. The commissioner and the commissioner's duly designated representatives may at any time investigate the affairs and examine the books, accounts, records and files used by Guaranty Corporation. The commissioner and the commissioner's duly designated representatives shall have free access to the offices, books, accounts, papers, records, files, safes, and vaults of Guaranty Corporation.

SEC. 20. Section 18504 of the Financial Code is amended to read:

18504. Any member or industrial loan company making application to participate in Guaranty Corporation aggrieved by any action or decision of Guaranty Corporation may appeal to the commissioner within 30 days from the action or decision.

SEC. 21. Section 18505 of the Financial Code is repealed.

SEC. 21.5. Section 18505 is added to the Financial Code, to read:

18505. (a) After consultation with, and approval by, the Thrift Guaranty Corporation, the commissioner shall adopt rules and regulations regarding information to be given to holders of investment certificates of industrial loan companies including, but not limited to, information containing any reference to a guarantee or insurance program of investment certificates, and the time and conditions for payments to the holders of investment certificates, in the event an industrial loan company is taken over by the commissioner. These regulations shall include the means for informing investment certificate holders of their rights.

(b) It is the intent of the Legislature that the commissioner authorize information which can be clearly understood by a typical investment certificate holder. In addition, the information may in no way imply that the State of California stands behind or is involved with any type of guarantee or insurance program for industrial loan companies investment certificate holders.

(c) These rules and regulations shall be adopted on an emergency basis within 60 days of the effective date of this section.

SEC. 22. Section 18506 of the Financial Code is amended to read:

18506. (a) 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 or that any of its thrift obligations are in any manner guaranteed unless the amount of the guarantee fund is in excess of 1 percent of the total outstanding thrift obligations of all

members, other than special 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. Except for any logo of Thrift Guaranty Corporation, such advertising shall only state the following:

" Investment certificates protected up to a maximum of fifty thousand dollars ($50,000) by Thrift Guaranty Corporation, a private nonprofit corporation. This corporation is not an instrumentality of the State of California, and the state is not responsible or liable for any losses occasioned by actions of the corporation. This protection is subject to the limitations provided in the California Financial Code."

(b) Notwithstanding subdivision (a), no member may advertise its membership in Thrift Guaranty Corporation or coverage of its thrift obligations by Thrift Guaranty Corporation while any portion of the loan to the Thrift Guaranty Corporation authorized under Sections 36.3 and 36.31 of the act adding this subdivision to this section remains unpaid.

SEC. 23. Section 18508 of the Financial Code is amended to read:

18508. When any member has redeemed its outstanding thrift obligations and has filed an undertaking with the commissioner not to issue thrift obligations guaranteed by Guaranty Corporation, or has obtained coverage of its thrift obligations solely through a private insurer, surety or guarantee corporation or an instrumentality of the federal government, that member shall be entitled to receive from Guaranty Corporation its account balance in Guaranty Corporation, subject to Section 18537 and the following conditions:

(a) No payment will be made to the member if, in the opinion of the commissioner, the amount in the member's account balance may be needed to pay obligations of Guaranty Corporation under Section 18490.

(b) Written approval from the commissioner to Guaranty Corporation authorizing Guaranty Corporation to pay the member.

(c) The amount paid to the member at any one time shall not reduce the total amount in the fund (less any then unpaid demand made by the commissioner pursuant to Section 18491) on the preceding March 15 below one million dollars ($1,000,000) nor below 1 percent of the total outstanding thrift obligations of all members, other than special members, as shown on the most recent independent audit reports required by Section 18405.

(d) No payment will be made to the member for a period of one year from the March 15 following the date the member has filed the undertaking with the commissioner.

(e) If more than one member becomes entitled to receive any payment under this section as of March 15 of any year, and the funds available from Guaranty Corporation are not sufficient to pay each member in full, the members shall share the funds on a pro rata basis. However, all amounts due, but not paid, to members previously filing an undertaking, shall be paid in full before newly entitled members

are paid.

SEC. 24. Section 18510 is added to the Financial Code, to read:

18510. The Board of Directors of Guaranty Corporation shall be composed of 11 members, four of which shall be public members. Public members shall be appointed by the board and shall not be affiliated with any company or affiliate of any company. Public members shall not be a relative of any officer or director of any company or its affiliates.

SEC. 25. Section 18511 is added to the Financial Code, to read:

18511. Guaranty Corporation shall establish a permanent office in this state.

SEC. 26. Section 18512 is added to the Financial Code, to read:

18512. The commissioner may require Guaranty Corporation to obtain a bond, insurance, or reinsurance which provides additional protection against losses to its members' thriftholders. The type, amount, and form of this protection is subject to the commissioner's written approval.

SEC. 27. Section 18520 of the Financial Code is amended to read:

18520. It shall be the purpose of Guaranty Corporation to guarantee full payment of guaranteed accounts of members, exclusive of special members, up to fifty thousand dollars ($50,000) for each account, subject to the express limitations provided in this chapter.

SEC. 28. Section 18520.1 of the Financial Code is repealed.

SEC. 29. Section 18521 of the Financial Code is amended and renumbered to read:

18100.5. Each industrial loan company, other than a premium finance agency, which has issued and has outstanding thrift obligations shall, as a condition to its authority to conduct business under this division, participate as a member in Guaranty Corporation in accordance with Chapter 7 (commencing with Section 18475) and rules established by the Board of Directors of Guaranty Corporation.

SEC. 29.5. Section 18521.5 is added to the Financial Code, to read:

18521.5. (a) Notwithstanding Section 18521 or 18100.5, until July 1, 1990, each industrial loan company, other than a premium finance agency, which has issued and has outstanding thrift obligations shall, as a condition of its authority to continue to conduct business under this division, participate as a member in Guaranty Corporation in accordance with this chapter and rules established by the Board of Directors of Guaranty Corporation, unless its outstanding thrift obligations are insured or guaranteed by an instrumentality of the United States government, or by a private insurer, surety, or guarantee company authorized to transact business in California and approved by the commissioner after consultation with the Insurance Commissioner.

(b) On and after July 1, 1990, each industrial loan company, other than a premium finance agency, which has issued and has outstanding thrift obligations, shall, as a condition of its authority to

continue to conduct business under this division, participate as a member of the Federal Deposit Insurance Corporation, or in a similar instrumentality of the federal government, or be insured by a private insurer, surety, or guarantee company authorized to transact business in California and approved by the commissioner after consultation with the Insurance Commissioner.

(c) Any person not transacting the business of an industrial loan company prior to the effective date of this section, who thereafter commences business under the provisions of this division, shall, upon commencement of its business, participate as a member of the Federal Deposit Insurance Corporation, or in a similar instrumentality of the federal government, or be insured by a private insurer, surety, or guarantee company authorized to transact business in this state and approved by the commissioner after consultation with the Insurance Commissioner.

(d) Until July 1, 1990, Thrift Guaranty Corporation shall have the power to seek insurance, guarantee, or surety, with an insurer or surety, or guarantor authorized to transact business in this state. The insurance shall be subject to the approval of the commissioner after consultation with the Insurance Commissioner. It is the intent of the Legislature to permit the Guaranty Corporation to seek insurance and the Guaranty Corporation's insurer to seek reinsurance.

(e) If, prior to the period of time set forth in subdivision (b), there shall be created a successor corporation to Thrift Guaranty Corporation by the members of Thrift Guaranty Corporation that is not an instrumentality of the State of California whose sole function is the insurance or guarantee of thrift obligations of industrial loan companies, and the successor corporation has its own fund insured, guaranteed, or assured with an insurance, guarantor, or surety company or companies authorized to do business in California and approved by the commissioner, and the successor corporation has the same powers and authority as Thrift Guaranty Corporation under the act that added this section, then thrift obligations may continue to be protected by that successor corporation as otherwise provided for under this chapter for as long as the successor corporation maintains insurance, guaranty, or assurance coverage of its fund.

(f) Within one year of the effective date of the act which adds this section, and annually thereafter until July 1, 1990, the commissioner shall report to the Legislature on the following:

(1) The progress of Thrift Guaranty Corporation in obtaining reinsurance.

(2) The progress of licensees in converting to coverage by an instrumentality of the United States government or by a private insurer, surety, or guarantor.

(3) Recommendations for additional legislation if, in the commissioner's opinion, additional legislation would be desirable to encourage industrial loan companies to seek coverage for investment certificates from sources other than Thrift Guaranty Corporation.

The commissioner shall submit special reports on these matters as may be required by the circumstances.

SEC. 30. Section 18522 of the Financial Code is repealed.

SEC. 31. 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:

(a) Single ownership investment certificates. Funds owned by an individual and invested in the manner set forth below shall be added together and guaranteed up to fifty thousand dollars ($50,000) in the aggregate.

(1) Individual investment certificates (or investment certificates of the husband-wife community of which the individual is a member) and invested in one or more investment certificates in his or her own name shall be guaranteed up to fifty thousand dollars ($50,000) in the aggregate.

(2) Funds owned by a principal and invested in one or more investment certificates in the name or names of agents or nominees shall be added to any individual investment certificates of the principal and guaranteed up to fifty thousand dollars ($50,000) in the aggregate.

(3) Investment certificates held by guardians, custodians or conservators for the benefit of their wards or for the benefit of a minor under a Uniform Gifts to Minors Act and invested in one or more investment certificates in the name of the guardian, custodian or conservator shall be added to any individual investment certificates of the ward or minor and guaranteed up to fifty thousand dollars ($50,000) in the aggregate.

(b) Testamentary investment certificates.

(1) Funds owned by an individual and invested in a revocable trust investment certificate, tentative trust investment certificate, payable-on-death investment certificate, or similar investment certificate evidencing an intention that on his or her death the funds shall belong to his or her spouse, child or grandchild, shall be guaranteed up to fifty thousand dollars ($50,000) in the aggregate, as to each such named beneficiary, separately from any other investment certificates of the owner.

(2) If the named beneficiary of such an investment certificate is other than the owner's spouse, child or grandchild, the funds in the investment certificate shall be added to any individual investment certificates of such owner and guaranteed up to fifty thousand dollars ($50,000) in the aggregate, separately from the individual investment certificates of the beneficiaries of the estate or of the executor or administrator.

(c) Investment certificates 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 or her estate and invested in one or more investment certificates shall be guaranteed up to fifty thousand dollars ($50,000) in the aggregate, separately from the

individual investment certificates of the beneficiaries of the estate or of the executor or administrator.

(d) Corporation or partnership investment certificates. Investment certificates of a corporation or partnership engaged in any independent activity shall be guaranteed up to fifty thousand dollars ($50,000) in the aggregate. An investment certificate 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 the investment certificate shall be added to any other investment certificates individually owned by such person and guaranteed up to fifty thousand dollars ($50,000) in the aggregate. The term "independent activity" means any activity other than one directed solely at increasing guarantee coverage under this chapter.

(e) Unincorporated associations. Investment certificates of an unincorporated association engaged in any independent activity shall be guaranteed up to fifty thousand dollars ($50,000) in the aggregate. An investment certificate 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 the investment certificate shall be added to any other investment certificates individually owned by such person and guaranteed up to fifty thousand dollars ($50,000) in the aggregate.

(f) Joint investment certificates.

(1) Investment certificates 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 investment certificates individually owned by the co-owners.

(2) A joint investment certificate shall be deemed to exist, for purposes of guarantee of investment certificates, only if each co-owner has personally executed an investment certificate signature card and possesses redemption rights.

(3) An investment certificate owned jointly which does not qualify as a joint investment certificate for purposes of guarantee of investment certificates shall be treated as owned by the named persons as individuals and the actual ownership interest of each such person in such investment certificate shall be added to any other investment certificates individually owned by such person and guaranteed up to fifty thousand dollars ($50,000) in the aggregate.

(4) All joint investment certificates owned by the same combination of individuals shall first be added together and guaranteed up to fifty thousand dollars ($50,000) in the aggregate.

(5) The interest of each co-owner in all joint investment certificates owned by different combinations of individuals shall then be added together and guaranteed up to fifty thousand dollars ($50,000) in the aggregate.

(g) Trust investment certificates. All trust interests for the same beneficiary invested in investment certificates established pursuant to valid trust arrangements created by the same settlor (grantor) shall be added together and guaranteed up to fifty thousand dollars ($50,000) in the aggregate, separately from other investment certificates 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 shall be recognized for all purposes of a claim for guaranteed thrift obligations to the same extent as if his or her name and interest were disclosed on the records of the member.

SEC. 32. Section 18523.2 of the Financial Code is repealed.

SEC. 33. Section 18524 of the Financial Code is repealed.

SEC. 34. Section 18525 is amended to read:

18525. Notwithstanding any other provision of this division, Guaranty Corporation, with the written consent of the commissioner, shall have the power to assume obligations, enter into contracts, including contracts of guarantee or suretyship, incur liabilities, borrow money, lend money or otherwise use its credit, and secure any of its obligations, contracts, or liabilities by mortgage, pledge, security interest, or other encumbrances of all or any part of its property and assets, including, but not limited to, income from assessments of members or rights thereto, and income.

SEC. 34.5. Section 18535 of the Financial Code is amended to read:

18535. Guaranty Corporation shall establish and maintain a guarantee fund as follows:

(a) Each new member, other than a new special member, shall pay one hundred thousand dollars ($100,000) to the guarantee fund to become a member.

(b) Whenever the commissioner finds that the controlling interest or 50 percent or more of the stock of a member which paid less than one hundred thousand dollars ($100,000) to become a member has been transferred, the member shall pay to the fund whatever sums are necessary to bring the member's total contribution pursuant to subdivision (a) to one hundred thousand dollars ($100,000) or 1 percent of the member's total outstanding thrift obligations on the date of transfer, whichever is less.

As used in this subdivision "controlling interest" means any percentage of stock which allows the stockholder to have control of management of the member company.

The provisions of this subdivision shall not be applicable (1) if the transfer of stock is between affiliated companies of a holding company and the holding company is exempt from the qualification requirement of Section 25130 of the Corporate Securities Law of 1968 by subdivision (a) or (b) of Section 25101 of the Corporations Code,

or (2) if the actual or contemplated change of ownership is to the transferor's ancestors, descendants, or spouse, or any custodian or trustee for the account of the transferor or the transferor's ancestors, descendants, or spouse, or to a transferee by a trustee or custodian for the account of the transferee or the transferee's ancestors, descendants, or spouse.

This subdivision shall apply, commencing January 1, 1987, to any member in existence prior to January 1, 1982. All other members shall be subject to this subdivision on and after January 1, 1982.

(c) If the total amount in the fund (less any then unpaid demand made by the commissioner pursuant to Section 18492) on March 15 of any year is less than 1½ percent of the total outstanding thrift obligations of all members, other than special members, as shown on the most recent independent audit reports required by Section 18405, then on or before May 1 of that year Guaranty Corporation shall levy an assessment. Each member, other than a special member, shall be assessed an amount equal to fifteen-hundredths of 1 percent of its outstanding thrift obligations as shown on its most recent independent audit report required by Section 18405. Guaranty Corporation may levy this assessment quarterly, based on members' quarterly reports, at one quarter of the annual assessment rate authorized by this subdivision.

(d) If the total amount in the fund (less any then unpaid demand made by the commissioner pursuant to Section 18492) on March 15 of any year hereafter is equal to or in excess of 1½ percent of the total outstanding thrift obligations of all members, other than special members, as shown on the most recent independent audit reports required by Section 18405, then on or before May 1 of that year Guaranty Corporation shall levy an assessment on each member, other than a special member, that has not fulfilled both the following conditions as of March 15 of that year:

(1) Paid total cumulative assessment payments to Guaranty Corporation exceeding in the aggregate 1½ percent of the total outstanding thrift obligations of that member shown on its most recent independent audit report required by Section 18405;

(2) Has a member's account balance in Guaranty Corporation exceeding 1½ percent of the total outstanding thrift obligations of that member shown on its most recent independent audit report required by Section 18405.

Each member who has failed to fulfill both the preceding conditions as of March 15 of that year shall be assessed an amount equal to fifteen-hundredths of 1 percent of its outstanding thrift obligations as shown on its most recent independent audit report required by Section 18405.

(e) If two members merge prior to May 1 of any year, the surviving member shall be liable for the assessment of the disappearing member that would have been payable to Guaranty Corporation pursuant to subdivision (c) or (d) had the merger not occurred prior to May 1.

SEC. 35. Section 18537 of the Financial Code is repealed.

SEC. 36. Section 18537 is added to the Financial Code, to read:

18537. (a) On the effective date of the act which adds this section, and annually thereafter, Guaranty Corporation shall levy a special assessment, to be known as the 1985 calendar year special assessment, on all members. The special assessment shall be in addition to the assessment levied pursuant to Section 18535. Each member shall be assessed an amount equal to .075 percent of its outstanding thrift obligations as shown on its most recent independent audit report required by Section 18405. Guaranty Corporation may levy this special assessment quarterly, based on members' quarterly reports, at one quarter of the annual assessment rate authorized by this section. A member shall only be required to pay a maximum of five annual assessments.

(b) "Outstanding thrift obligations" of special members, for purposes of this section, shall be fixed at the amount of thrift obligations outstanding on the day the special member obtained coverage of its thrift obligations by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or by a private insurer, surety or guarantee corporation described in Section 18476.

(c) Outstanding thrift obligations of any member which redeems its thrift obligations on or after January 1, 1985, pursuant to Section 18508 and surrenders its license as an industrial loan company, for purposes of this section, shall be fixed as of December 31 of the calendar year immediately preceding the year in which such member redeems its outstanding thrift obligations.

(d) Any member who is a special member or who becomes a special member within three years of the effective date of this act shall only be required to pay three annual special assessments beginning with the 1985 calendar year special assessment.

(e) This section shall be repealed five years and one day after the operative date of the act which added this section.

SEC. 36.1. In this act, unless the context otherwise requires:

(a) "Commissioner" means the California Commissioner of Corporations.

(b) "Guaranty Corporation" means Thrift Guaranty Corporation of California, a corporation organized under the laws of the State of California.

(c) "Western Community" means Western Community Money Center, a corporation organized under the laws of the State of California.

SEC. 36.2. The Legislature finds and declares that Western Community has been seized by the commissioner; that the facts, circumstances and conditions which caused the failure of Western Community and its seizure by the commissioner were unique in the history of the thrift and loan industry in California; that thousands of California residents hold investment or thrift certificates issued by Western Community; many such residents are not able to meet their

financial obligations because Western Community is unable to honor the obligations and because Guaranty Corporation under law cannot fully utilize its assets to honor its guarantees on all investment or thrift certificates issued by Western Community; many residents face eviction, repossession of property or collection action; the financial status of many such residents is threatened; that it is in the interest of this state's economy to act to stabilize this financial crisis; that it is in the public interest to assist Guaranty Corporation by appropriating moneys from the Contingency Reserve for Economic Uncertainties and making them available either to provide security for a guarantee supporting and securing a loan to Guaranty Corporation or to provide a loan directly to Guaranty Corporation; and that the action taken is not in any manner to be construed as a precedent or to imply that the state has any legal obligation to so act now or in the future and that action hereby taken by the Legislature is based solely upon the facts, circumstances, and conditions which prevailed at the time of the seizure of Western Community by the commissioner.

SEC. 36.3. In order to expedite payments up to the guaranteed amount to investment or thrift certificate holders of Western Community, the commissioner is hereby authorized to execute, on behalf of the State of California, a guarantee of a private loan to Guaranty Corporation, and to pledge, as a source of payment on the guarantee, amounts deposited in the Industrial Loan Special Fund established by Section 36.6 of this act as security for the guarantee subject to the following conditions:

(a) The state will guarantee the payment of principal and interest to the person who makes the loan to Guaranty Corporation.

(b) The principal amount of the loan to be guaranteed shall not exceed sixty-six million dollars ($66,000,000).

(c) All proceeds of the loan shall be used to pay all investment or thrift certificate holders of Western Community up to the guaranteed amount of their eligible investment certificates (see Section 18523 of the Financial Code).

(d) The loan shall be repaid (1) from the proceeds of the liquidation of Western Community and from the assets of Guaranty Corporation to the extent provided in this section, and (2) if these amounts are not sufficient for timely payment of principal, interest, and any other amounts due in respect of the loan, by the commissioner on behalf of the state pursuant to the guarantee authorized by subdivision (f) of this section. However, the Thrift Guarantee Fund shall not be reduced below six million dollars ($6,000,000) or 1 percent of guaranteed accounts, whichever is less, in repaying the loan, except that all assets may be used to repay the loan if Guaranty Corporation is either liquidated or ceases providing a guarantee of member investment certificates. At maturity of the guaranteed loan, the full amount of the appropriation made by Section 36.6 of this act may be made available for timely payment of principal, interest, and any other amounts due in respect of the loan.

(e) The terms and conditions of the loan to Guaranty Corporation shall be subject to the approval of the commissioner.

(f) The commissioner may pledge and grant a security interest in the amounts deposited in the Industrial Loan Special Fund established by Section 36.6 of this act. This pledge and grant may be exclusive and may create a first lien on all amounts in or credited to that fund. No further appropriation or legislative action of any kind shall be required to make amounts available from the fund to satisfy this guaranty obligation, if and when necessary, and the appropriate officers of the state are hereby authorized, if and when necessary, to take these actions as may be required to make these amounts so available.

SEC. 36.31. If Guaranty Corporation is unable to negotiate a loan acceptable to the commissioner within 30 days of the effective date of this act, or if Guaranty Corporation is unable to secure a loan for the amount necessary to pay the full guaranteed amounts described in subdivision (d), the commissioner is authorized to lend some or all of the amount appropriated pursuant to Section 36.6 of this act on behalf of the State of California, to Guaranty Corporation, subject to the following conditions:

(a) The principal amount of the loan shall not exceed sixty-six million dollars ($66,000,000).

(b) The term of the loan shall not exceed five years.

(c) The loan shall bear an initial interest rate comparable to the last available daily rate of return earned by the Pooled Money Investment Account on the actual date of transfer of the loan funds. The loan rate shall be adjusted annually to reflect changes in the rate of return earned by the Pooled Money Investment Account.

(d) All proceeds of the loan shall be used by Guaranty Corporation to pay all investment or thrift certificate holders of Western Community up to the guaranteed amount of their eligible investment certificates (see Section 18523 of the Financial Code).

(e) A loan made pursuant to this section may be in combination with the loan described in Section 36.3 of this act, but the aggregate amount of these loans shall not exceed sixty-six million dollars ($66,000,000).

(f) The loan shall be repaid from the proceeds of the liquidation of Western Community and from the assets of Guaranty Corporation. All loan repayments under this section shall be deposited in the Contingency Reserve for Economic Uncertainties established by Section 12.3 of the Budget Act of 1980. However, the Thrift Guarantee Fund shall not be reduced below six million dollars ($6,000,000) or 1 percent of guaranteed accounts, whichever is less, in repaying the loan, except that all assets may be used to repay the loan if Guaranty Corporation is either liquidated or ceases providing a guarantee of member investment certificates.

SEC. 36.4. The commissioner shall take all steps necessary and appropriate to protect the interests of the state in any and all transactions under this act.

SEC. 36.5. (a) The commissioner shall administer the provisions of this act.

(b) All state agencies, upon request, shall provide to the commissioner any assistance he or she may require in carrying out the provisions of this act.

SEC. 36.6. There is in the State Treasury the Industrial Loan Special Fund, which is hereby created, for the purpose of implementing Sections 36.3 and 36.31 of this act.

In addition to any other appropriation, and notwithstanding subdivision (d) of Section 12.30 of the Budget Act of 1984, the sum of forty million dollars ($40,000,000) is hereby continuously appropriated from the Contingency Reserve for Economic Uncertainties, as provided in Section 12.30 of the Budget Act of 1984, to the Industrial Loan Special Fund. Funds in the Industrial Loan Special Fund shall be invested by the State Treasurer. Interest or increments earned on investment of amounts in the Industrial Loan Special Fund shall be retained in the Industrial Loan Special Fund and shall be available for implementing Sections 36.3 and 36.31 of this act. Notwithstanding subdivision (d) of Section 12.30 of the Budget Act of 1984, this appropriation shall not be deemed an appropriation from the General Fund. Upon full discharge of the guarantee authorized by Section 36.3 of this act or full payment of the loan authorized by Section 36.31 of this act, all amounts remaining in the Industrial Loan Special Fund shall be returned to the Contingency Reserve for Economic Uncertainties, as provided in Section 12.30 of the Budget Act of 1984. In the event of partial discharge of the guarantee or partial repayment of the loan, any amounts not required by the terms of the guarantee or the terms of the loan remaining in the Industrial Loan Special Fund shall be returned to the Contingency Reserve for Economic Uncertainties, as provided in Section 12.30 of the Budget Act of 1984.

SEC. 37. 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. 38. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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. 39. It is the intent of the Legislature that this bill shall not become operative unless and until Assembly Bill No. 36 of the 1985–86 Regular Session of the Legislature is enacted and becomes effective on or before January 1, 1986.

SEC. 40. 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 recent failure of a large industrial loan company has imposed a threat to the state's economy. It is necessary that this act take effect immediately in order to safeguard the public health, safety, and welfare, to alleviate real danger to lives and property, and to relieve the severe hardship suffered by thousands of California residents.

CHAPTER 143

An act to amend Section 37220 of the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1985 Filed with Secretary of State July 1, 1985]

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

SECTION 1. Section 37220 of the Education Code is amended to read:

37220. Except as otherwise provided, the public schools shall continue in session or close on specified holidays as follows:

(a) The public schools shall close on January 1st, the third Monday in January known as "Dr. Martin Luther King, Jr. Day," February 12th known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," July 4th, the first Monday in September known as "Labor Day," November 11th known as "Veterans Day," that Thursday in November proclaimed by the President as "Thanksgiving Day," and December 25th. However, the governing board of a school district may elect to celebrate Dr. Martin Luther King, Jr. Day on the Friday or Monday of the week in which January 15th occurs, or the third Monday in January, Lincoln Day on the Friday or Monday of the week in which February 12th occurs, or Veterans Day on the Friday or Monday of the week in which November 11th occurs.

(b) The Governor in appointing any other day for a public fast, thanksgiving, or holiday may provide whether the public schools shall close on the day. If the Governor does not provide whether the public schools shall close, they shall continue in session on all special or limited holidays appointed by the Governor, but shall close on all other days appointed by the Governor for a public fast, thanksgiving, or holiday.

(c) The public schools shall close on every day appointed by the President as a public fast, thanksgiving, or holiday, unless it is a special or limited holiday.

(d) The public schools shall continue in session on all legal holidays other than those designated by or pursuant to this section and shall hold proper exercises commemorating the day.

(e) When any of the holidays on which the schools would be closed fall on Sunday, the public schools shall close on the Monday following.

(f) When any of the holidays on which the schools would be closed fall on Saturday, the public schools shall close on the preceding Friday, and that Friday shall be declared a state holiday.

(g) If any holiday on which the public schools are required to close pursuant to subdivision (a) occurs under federal law on a date different than the date specified in subdivision (a), the governing board of any school district may close the public schools of the district on the date recognized by federal law and maintain classes on the date specified in subdivision (a).

(h) Nothing in this section is to be interpreted as authorizing a school district governing board to maintain schools in its district for a lesser number of days during the school year than the minimum established by law.

SEC. 2. (a) It is the intent of the Legislature that the Education Code be reviewed in order to identify references that are inconsistent, ambiguous, obsolete, or otherwise inappropriate. This review is intended to thereby enable the Legislature to identify methods of relieving the governing boards of school districts and county offices of education of the administrative burden of seeking waivers of inappropriate provisions of the Education Code, and to afford the governing boards and county offices flexibility in the implementation of education policy and programs. The Legislature hereby finds that the nature of this review as a neutral and independent assessment requires that it be performed by a private individual or organization.

(b) The Legislative Analyst is directed to contract with a private individual or organization, subject to applicable provisions of law regarding public contracting, to conduct a study of those provisions of Title 1 (commencing with Section 1) and Title 2 (commencing with Section 33000) of the Education Code that relate to elementary or secondary education, or to the programs or operations of the county superintendents of schools. The contract for performance of this study shall be awarded within 90 days following the date of enactment of this act, and shall require that the study be completed in accordance with this act and submitted to the Legislative Analyst no later than 10 months after the date of the award of the contract. Upon receipt of the completed study, the Legislative Analyst shall report the results of the study to the Governor and to the fiscal and education policy committees of each house of the Legislature.

(c) Each section of the Education Code within the scope of the study shall be assessed by the study to determine, in furtherance of the purposes set forth in subdivision (a), all of the following:

(1) Whether the inclusion of the section in the Education Code is either necessary or beneficial, in view of the general authority granted to the governing boards of school districts under Article 4 (commencing with Section 35160) of Chapter 2 of Part 21 of the

Education Code.

(2) Whether the substantive effect of the section has been superseded by subsequent codification of legislative policy.

(3) Whether the section is inaccurate or otherwise inappropriate as it interacts with other sections of the Education Code.

(d) In conducting the study, suggested revisions to the Education Code from all of the following individuals and entities shall be solicited and considered:

(1) Each of the 58 county counsels.

(2) Each county superintendent of schools.

(3) Each school district.

(4) At least 10 organizations representing employees, management, or governing bodies of California school districts.

(5) At least 10 law firms having significant experience in the interpretation or application of the Education Code.

(6) The Legislative Counsel.

(7) The Superintendent of Public Instruction.

(8) The Attorney General.

(9) The Teachers' Retirement Board.

SEC. 3. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the Legislative Analyst for the purposes of contracting for the performance of a study as described in this act, paying any administrative costs arising from the supervision of the contract, and producing a report of the results of that study to the Governor and to the fiscal and education policy committees of each house of the Legislature.

SEC. 4. (a) Notwithstanding subdivision (a) of Section 35532 of the Education Code, and Sections 54900 to 54903.1, inclusive, of the Government Code, the formation of the Cuyama Unified School District shall be effective on July 1, 1985.

(b) Exclusively for the purposes of Sections 54900 to 54903.1, inclusive, of the Government Code, the effective date of the formation of the Cuyama Unified School District shall be deemed to be July 1, 1986.

SEC. 5. Due to the unique circumstances concerning the formation of the Cuyama Unified School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 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 that the revision of references in the Education Code that are inconsistent, ambiguous, obsolete, or otherwise inappropriate may occur at the earliest possible date, so as to enhance the effectiveness of operation of governing boards of school districts and county offices of education, and that the formation of the Cuyama Unified School District may be effective on July 1, 1985, as approved

by the local electorate, it is necessary that this act take effect immediately.

SEC. 7. Section 1 of this act shall become operative on July 1, 1986.

CHAPTER 144

An act to amend Sections 710.5 and 2602 of the Unemployment Insurance Code, relating to disability insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 2, 1985 Filed with Secretary of State July 3, 1985]

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

SECTION 1. Section 710.5 of the Unemployment Insurance Code is amended to read:

710.5. Notwithstanding Section 709, any public agency, as defined in Section 3501 of the Government Code, may elect to become an employer subject to Part 2 (commencing with Section 2601) with respect to all employees who are a part of an appropriate unit established pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code, provided the election is the result of a negotiated agreement between the public agency and the recognized employee organization, as those terms are defined in Section 3501 of the Government Code. The public agency employer also may elect to provide coverage to its management and confidential employees and to its employees who are not a part of an appropriate unit, but the election shall not be contingent upon coverage of other employees of the public agency employer.

Upon filing of such an election, the filing entity shall, upon approval by the director, become an employer subject to Part 2 (commencing with Section 2601) to the same extent as other employers, and services performed by its employees who are subject to an election under this section shall constitute employment subject to that part.

Sections 986 and 2903 shall apply to an employer making an election pursuant to this section.

SEC. 2. Section 2602 of the Unemployment Insurance Code is amended to read:

2602. (a) Except as otherwise provided, the provisions and definitions of Part 1 (commencing with Section 100) of this division apply to this part. In case of any conflict between the provisions of Part 1 and the provisions of this part, the provisions of this part shall prevail with respect to unemployment compensation disability benefits, and the provisions of Part 1 shall prevail with respect to

unemployment compensation benefits.

(b) The provisions of Chapter 6 (commencing with Section 1501) of Part 1, of this division do not apply to this part.

(c) Sections 312, 318, 1251, 1253, 1253.3, 1254, 1255, 1262, 1279, 1326 to 1333, inclusive, 1339, 1340, 1375 to 1378, inclusive, and 1380 do not apply to this part.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 4. 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. 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 continue permitting local agencies to elect to become an employer for unemployment disability insurance purposes with respect to its employees as soon as possible after December 31, 1984, this act shall go into immediate effect.

CHAPTER 145

An act to amend Section 25351 of the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 2, 1985 Filed with Secretary of State July 3, 1985]

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

SECTION 1. Section 25351 of the Health and Safety Code is amended to read:

25351. (a) Consistent with the requirements of Section 114(c) of the federal act (42 U.S.C. Sec. 9614(c)), moneys in the state account may be expended by the director, upon appropriation by the Legislature, for all of the following purposes:

(1) The costs and expenses reasonably necessary for, and incidental to, the administration of this chapter by the department.

(2) The state share mandated pursuant to Section 104(c)(3) of the federal act (42 U.S.C. Sec. 9604(c)(3)).

(3) The purchase by the state, or by any local agency with the

prior approval of the director, of hazardous substance response equipment and other preparations for response to a release of hazardous substances. However, all equipment shall be purchased in a cost-effective manner after consideration of the adequacy of existing equipment owned by the state or the local agency, and the availability of equipment owned by private contractors.

(4) For payment of all costs of removal and remedial action incurred by the state, or by any local agency with the approval of the director in response to a release or threatened release of a hazardous substance to the extent the costs are not reimbursed by the federal act.

(5) For payment of all costs of actions taken pursuant to subdivision (b) of Section 25358.3, to the extent that these costs are not paid by the federal act.

(6) All costs incurred in cooperation with the Agency for Toxic Substances and Disease Registry established pursuant to Section 104(i) of the federal act (42 U.S.C. Sec. 9604(i)) and all costs of health effects studies undertaken regarding specific sites or specific substances at specific sites. Funds appropriated for this purpose shall not exceed five hundred thousand dollars ($500,000) in any single fiscal year. However, these actions shall not duplicate reasonably available federal actions and studies.

(7) Repayment of the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385).

(8) The reasonable and necessary costs and expenses of the Hazardous Waste Cleanup Arbitration Panel created pursuant to Section 25356.2.

(b) The director shall expend federal funds in the state account consistent with the requirements specified in Section 114 of the federal act (42 U.S.C. Sec. 9614), upon appropriation by the Legislature, for the purposes for which they were provided to the state.

(c) Moneys in the state account shall not be expended to conduct removal or remedial actions if any significant portion of the hazardous substances to be removed or remedied originated from a source outside of the state.

(d) Moneys in the state account may be expended, upon appropriation by the Legislature, to support the Toxic Substance Enforcement program in the office of the Attorney General in carrying out the purposes of this chapter.

On or before October 1 of each year, the Attorney General shall report to the Legislature on the expenditure of any funds appropriated to the office of the Attorney General pursuant to this subdivision for the preceding fiscal year.

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 funds in the Hazardous Substance Account may be

available at the commencement of the 1985–86 fiscal year to support the Toxic Substance Enforcement program in the office of the Attorney General, it is necessary that this act take effect immediately.

CHAPTER 146

An act to amend Section 69670 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985.]

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

SECTION 1. Section 69670 of the Education Code is amended to read:

69670. There is hereby created a state competitive graduate fellowship program with fellowships to be provided by the state and used by award winners for graduate study in colleges and universities located in California and accredited by the Western Association of Schools and Colleges, the American Osteopathic Association, or the National Architectural Accrediting Board, or in a professional school with a program leading to a graduate level professional law degree which is located in California and which is accredited pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code. As used in this section "graduate study" means that phase of education coming after the completion of the baccalaureate degree and leading toward a recognized graduate or professional degree. Awards shall be granted to students with academic ability and financial need. The financial status of the applicant's parents shall be taken into consideration in determining the applicant's financial need. In determining the financial need of an applicant, the commission shall also expect each student to make a self-help contribution toward college costs through loans or employment or a combination of loans and employment.

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 students seeking to enroll in architectural programs in California colleges and universities for the 1985–86 academic year may be eligible for the graduate fellowships described in this act, it is necessary that this act take effect immediately.

CHAPTER 147

An act to amend Section 9 of the Civil Code, and to amend Section 3123 of the Commercial Code, relating to holidays, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1985. Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 9 of the Civil Code is amended to read:

9. All other days than those mentioned in Section 7 are business days for all purposes; provided, that as to any act appointed by law or contract, or in any other way, to be performed by, at, or through any bank organized under the laws of or doing business in this state, any optional bank holiday as defined in Section 3123 of the Commercial Code is not a business day; and provided, that any act appointed by law or contract, or in any other way, to be performed on any day which is an optional bank holiday as defined in Section 3123 of the Commercial Code, by, at, or through any bank or branch or office thereof, whether acting in its own behalf or in any other capacity whatsoever, may be performed on that optional bank holiday if the bank or branch or office by, at, or through which the act is to be performed is open for the transaction of business on that optional bank holiday, or, at the option of the person obligated to perform the act, it may be performed on the next succeeding business day.

SEC. 2. Section 3123 of the Commercial Code is amended to read:

3123. (1) Every instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, Saturday or a holiday, the instrument is payable on the next succeeding business day which is not a Saturday. Where the day of maturity of the instrument falls on an optional bank holiday or the instrument would except for the foregoing provision be payable on an optional bank holiday and it is payable by or at a banking house or any branch or separate office thereof, and the particular banking house or branch or separate office thereof by or at which the instrument is payable is open for the transaction of business on such optional bank holiday, the holder of the instrument may, at his or her option, present the instrument for payment at the banking house or branch or separate office thereof by or at which the instrument is payable on the optional bank holiday or on the next succeeding business day. An instrument payable on demand is not to be presented for payment on an optional bank holiday but is to be presented for payment on the next succeeding business day, except that where the instrument is payable by or at a banking house or any branch or separate office thereof and the particular banking house or branch or separate office by or at which the instrument is payable is open

for the transaction of business on an optional bank holiday, the holder of the instrument may at his or her option present the instrument for payment at the banking house or branch or separate office by or at which the instrument is payable on that optional bank holiday or on the next succeeding business day.

(2) For the purpose of this section "optional bank holiday" means:

(a) Any closing of a bank because of an emergency, as that term is defined in the Bank Extraordinary Situation Closing Act (Chapter 20 (commencing with Section 3600) of Division 1 of the Financial Code).

(b) Every Saturday.

(c) Every Sunday.

(d) January 1st.

(e) The third Monday in January, known as "Dr. Martin Luther King Jr. Day."

(f) February 12, known as "Lincoln Day."

(g) The third Monday in February.

(h) The last Monday in May.

(i) July 4th.

(j) The first Monday in September.

(k) September 9th, known as "Admission Day."

(*l*) The second Monday in October, known as "Columbus Day."

(m) November 11th, known as "Veterans Day."

(n) December 25th.

(o) Good Friday from 12 noon until closing.

(p) The Thursday in November appointed as Thanksgiving Day.

(q) Any Monday following any Sunday on which January 1st, February 12th, July 4th, September 9th, November 11th, or December 25th falls.

(r) Any Friday preceding any Saturday on which July 4th, September 9th, or December 25th falls.

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

Due to the fact that the Federal Reserve System has recently adopted a uniform schedule of bank holidays, due to the fact that there is continual confusion regarding bank holidays, and due to the fact that the banks would like to clarify the holidays that may be observed in 1985 and adjust their calendars accordingly, it is necessary that this act take effect immediately.

CHAPTER 148

An act to amend Section 13323 of the Water Code, relating to water quality.

[Approved by Governor July 4, 1985. Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 13323 of the Water Code is amended to read:

13323. (a) Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision of law authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

(b) The complaint shall be served by personal notice or certified mail, and shall inform the party so served that a hearing shall be conducted within 60 days after the party has been served. The hearing shall be before a panel of the regional board, consisting of three or more members of the regional board as it may specify, or before the regional board. The person who has been issued a complaint may waive the right to a hearing, in which case the regional board shall not conduct a hearing.

(c) After any hearing, the panel shall report its proposed decision and order to the regional board and shall, at the time it reports its decision to the regional board, supply a copy to the party served with the complaint, the party issuing the complaint, and any other person requesting a copy. Members of the panel may sit as members of the board in deciding the matter. The regional board, after making an independent review of the record and taking such additional evidence as may be necessary and could not reasonably have been offered before the hearing panel, may adopt, with or without revision, the proposed decision and order of the panel.

(d) Orders setting administrative civil liability shall become effective and final upon issuance thereof, and payment shall be made within 30 days. Copies of these orders shall be served by personal service or by registered mail upon the party served with the complaint and upon other persons who appeared at the hearing and requested a copy.

CHAPTER 149

An act to amend Section 20783 of the Public Contract Code, relating to sanitation districts.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 20783 of the Public Contract Code is amended to read:

20783. When work is done by the district itself by force account, the amount shall not exceed five thousand dollars ($5,000). When the expenditure required for the work exceeds twenty-five thousand dollars ($25,000), it shall be contracted for and let to the lowest responsible bidder after notice. The notice inviting bids shall set a date for the opening of bids. The first publication or posting of the notice shall be at least 10 days before the date of opening the bids. Notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation, printed and published in the district, or if there is none, it shall be posted in at least three public places in the district that have been designated by the district board as the places for posting such notice. The notice shall distinctly state the work to be done.

In its discretion, the district board may reject any bids presented and readvertise. If two or more bids are the same and the lowest, the district board may accept the one it chooses. If no bids are received, the district board may have the work done without further bid.

If all bids are rejected, the district board, on a resolution adopted by a four-fifths vote, may declare that the work can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market and may have the work done in a manner stated in the resolution in order to take advantage of this lower cost.

If there is a present or anticipated great public calamity, including an extraordinary fire, flood, storm, or other disaster the district board may, by resolution adopted by a four-fifths vote declaring that the public interest and necessity demand immediate expenditure of public money to safeguard life, health, or property, expend any sum required in the emergency without submitting such expenditure to bid.

Cost records of the work shall be kept in the manner provided in Sections 4000 to 4007, inclusive, of the Government Code.

This section shall not apply to sewerage maintenance, repair work, or to any uncompleted works under construction by district forces prior to the enactment of this section, and shall not be construed to exempt any work from the provisions of Part 7 (commencing with Section 1720) of Division 2 of the Labor Code.

CHAPTER 150

An act to amend Section 65974 of the Government Code, relating to interim school facilities.

[Approved by Governor July 4, 1985. Filed with Secretary of State July 8, 1985.]

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

SECTION 1. Section 65974 of the Government Code is amended to read:

65974. For the purpose of establishing an interim method of providing classroom facilities where overcrowded conditions exist, as determined necessary pursuant to Section 65971, and notwithstanding Section 66478, a city, county, or city and county may, by ordinance, require the dedication of land, the payment of fees in lieu thereof, or a combination of both, for classroom and related facilities for elementary or high schools as a condition to the approval of a residential development, if all of the following occur:

(a) The general plan provides for the location of public schools.

(b) The ordinance has been in effect for a period of 30 days prior to the implementation of the dedication or fee requirement.

(c) The land or fees, or both, transferred to a school district shall be used only for the purpose of providing interim elementary or high school classroom and related facilities. If fees are paid in lieu of the dedication of land and those fees are utilized to purchase land, no more land shall be purchased than is necessary for the placement thereon of interim facilities.

(d) The location and amount of land to be dedicated or the amount of fees to be paid, or both, shall bear a reasonable relationship and shall be limited to the needs of the community for interim elementary or high school facilities and shall be reasonably related and limited to the need for schools caused by the development. However, the fees shall not exceed the amount necessary to pay five annual lease payments for the interim facilities. In lieu of the fees, the builder of a residential development may, at his or her option and at his or her expense, provide interim facilities, owned or controlled by the builder, at the place designated by the school district, and at the conclusion of the fifth school year the builder shall, at the builder's expense, remove the interim facilities from that place.

(e) A finding is made by the city council or board of supervisors that the facilities to be constructed from the fees or the land to be dedicated, or both, is consistent with the general plan.

The ordinance may specify the methods for mitigating the conditions of overcrowding which the school district shall consider when making the finding required by subdivision (b) of Section 65971.

If the payment of fees is required, the payment shall be made at the time the building permit is issued or at a later time as may be specified in the ordinance.

Only the payment of fees may be required in subdivisions containing 50 parcels or less.

CHAPTER 151

An act to amend Section 24011 of the Government Code, relating to counties.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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 boards of supervisors of Mendocino County and Lake County may, by ordinance, provide that the public administrator shall be appointed by the board.

(b) The boards of supervisors of Mendocino County and Lake County may appoint the same person to the offices of public administrator, veteran service officer, and public guardian.

(c) The boards of supervisors of Mendocino County and Lake 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. The Board of Supervisors of Lake County desires and has requested the authority granted to it by Section 1 of this act in order to achieve governmental efficiency through combining certain county offices. The Legislature finds and declares that this limited authority necessitates a special act, and that a general act to accomplish this result cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 152

An act to amend Sections 45370 and 45371 of the Education Code, relating to school employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1985. Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 45370 of the Education Code is amended to read:

45370. It is the intent of the Legislature in enacting this article that the governing board of each school district, each county superintendent of schools and each state school for the handicapped employ qualified persons to serve as readers for the legally blind certified classroom teachers employed by each of these entities.

SEC. 2. Section 45371 of the Education Code is amended to read:

45371. There is hereby created in the State Treasury the Reader Employment Fund, to be administered by the Superintendent of Public Instruction. From any funds that are appropriated to the Reader Employment Fund, the Superintendent of Public Instruction shall allocate to each applicant school district, county superintendent of schools, and state school for the handicapped operated pursuant to Part 32 (commencing with Section 59000) an amount sufficient to provide the legally blind certificated classroom teachers employed by the applicant with the services of a reader for a maximum of 15 hours per school week.

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

In order that the allocation of funds for readers for blind classroom teachers may be authorized for the 1985–86 fiscal year, for public schools not operated by school districts, it is necessary that this act take effect immediately.

CHAPTER 153

An act to amend Section 25515.1 of the Government Code, relating to counties.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 25515.1 of the Government Code is amended to read:

25515.1. (a) After complying with Section 65402 and Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5, in managing its real property acquired prior to January 1, 1984, a county may do any of the following:

(1) Sell, or lease for a term not to exceed 99 years, any of its real

property to any person, partnership, corporation, or governmental entity the governing body selects for purposes of cultural, residential, commercial, or industrial use or development, subject to periodic review by the county, upon the terms and conditions determined by the board of supervisors.

(2) Participate as a principal party in the development of cultural, residential, commercial, or industrial uses or development thereof as a public works project.

(3) Contract for the management, marketing, operation, or leasing of its real property for purposes of cultural, residential, commercial, or industrial use or development.

(b) Prior to entering into any agreement pursuant to subdivision (a), the board of supervisors shall determine that the sale, lease, development, or other contract will result in economic benefits to the county. If the proposed agreement is a lease, the board of supervisors shall also make both of the following determinations:

(1) That the public benefit of the proposed lease agreement is expected to be greater than the public benefit which would result from the sale of the property.

(2) That a reasonable expectation exists that future public need justifies retention of the fee ownership of the property.

If the property to be used or developed is adjacent to, or a portion of, real property which is, or will be, used for other governmental activities, the board of supervisors shall also determine that the agreement will not interfere with the use or development of the remaining public property.

(c) In managing any of its property acquired after January 1, 1984, and after complying with Section 65402 and Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5, a county may sell, lease, develop, or otherwise dispose of that property in the manner set forth in this section. This subdivision is not applicable to any county property acquired through eminent domain proceedings.

CHAPTER 154

An act to amend Section 2924b of the Civil Code, and to amend Section 409 of the Code of Civil Procedure, relating to real property.

[Approved by Governor July 4, 1985. Filed with Secretary of State July 8, 1985.]

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

SECTION 1. Section 2924b of the Civil Code is amended to read:

2924b. (a) Any person desiring a copy of any notice of default and of any notice of sale under any deed of trust or mortgage with power of sale upon real property, as to which deed of trust or

mortgage the power of sale cannot be exercised until these notices are given for the time and in the manner provided in Section 2924 may, at any time subsequent to recordation of the deed of trust or mortgage and prior to recordation of a notice of default thereunder, cause to be filed for record in the office of the recorder of any county in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of the notice of default and of sale. This request shall be signed and acknowledged by the person making the request, specifying the name and address of the person to whom the notice is to be mailed, shall identify the deed of trust or mortgage by stating the names of the parties thereto, the date of recordation thereof, and the book and page where the deed of trust or mortgage is recorded or the recorder's number, and shall be in substantially the following form:

"In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust (or mortgage) recorded _____, 19__, in Book _____ page _____ records of _____ County, (or filed for record with recorder's serial number _____, _____ County) California, executed by _____ as trustor (or mortgagor) in which _____, is named as beneficiary (or mortgagee) and _____ as trustee be mailed to _____

_____ at _____ .

Name Address

Signature _____"

Upon the filing for record of the request, the recorder shall index in the general index of grantors the names of the trusters (or mortgagor) recited therein and the names of persons requesting copies.

(b) The mortgagee, trustee, or other person authorized to record the notice of default shall do each of the following:

(1) Within 10 days following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, with postage prepaid and sent by registered or certified mail, containing a copy of the notice with the recording date shown thereon, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each truster or mortgagor at his last known address if different than the address specified in the deed of trust or mortgage with power of sale.

(2) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, with postage prepaid and sent by registered or certified mail, containing a copy of the notice of the time and place of sale, addressed to each person whose name and address are set forth in a duly recorded request therefor, directed to the address designated in the request and to each truster or mortgagor at his last known address if different than the address specified in the deed of trust or

mortgage with power of sale.

(3) As used in paragraphs (1) and (2), the "last known address" of each truster or mortgagor means the last business or residence address actually known by the mortgagee, beneficiary, trustee, or other person authorized to record the notice of default. The beneficiary shall inform the trustee of the truster's last address actually known by the beneficiary. However, the trustee shall incur no liability for failing to send any notice to this last address unless the trustee has actual knowledge of it.

(c) The mortgagee, trustee, or other person authorized to record the notice of default shall do the following:

(1) Within one month following recordation of the notice of default, deposit or cause to be deposited in the United States mail an envelope, with postage prepaid and sent by registered or certified mail, containing a copy of the notice with the recording date shown thereon, addressed to each person set forth in paragraph (2), provided that the estate or interest of any person entitled to receive notice under this subdivision is acquired by an instrument sufficient to impart constructive notice of the estate or interest in the land or portion thereof which is subject to the deed of trust or mortgage being foreclosed, and provided the instrument is recorded in the office of the county recorder so as to impart such constructive notice prior to the recording date of the notice of default and provided the instrument as so recorded sets forth a mailing address which the county recorder shall use, as instructed within the instrument, for the return of the instrument after recording, and which address shall be the address used for the purposes of mailing notices herein.

(2) The persons to whom notice shall be mailed under this subdivision are:

(A) The successor in interest, as of the recording date of the notice of default, of the estate or interest, or any portion thereof, of the truster or mortgagor of the deed of trust or mortgage being foreclosed.

(B) The beneficiary or mortgagee of any deed of trust or mortgage recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to, or concurrently with, the deed of trust or mortgage being foreclosed but subject to a recorded agreement or a recorded statement of subordination to the deed of trust or mortgage being foreclosed.

(C) The assignee of any interest of the beneficiary or mortgagee described in subparagraph (B), as of the recording date of the notice of default.

(D) The vendee of any contract of sale, or the lessee of any lease, of the estate or interest being foreclosed which is recorded subsequent to the deed of trust or mortgage being foreclosed, or recorded prior to, or concurrently with, the deed of trust or mortgage being foreclosed, but subject to a recorded agreement or statement of subordination to the deed of trust or mortgage

being foreclosed.

(E) The successor in interest to the vendee or lessee described in subparagraph (D) above, as of the recording date of the notice of default.

(F) The office of the State Controller, Sacramento, California, where, as of the recording date of the notice of default, a "Notice of Lien for Postponed Property Taxes" has been recorded against the real property to which the notice of default applies.

(3) At least 20 days before the date of sale, deposit or cause to be deposited in the United States mail an envelope, with postage prepaid and sent by registered or certified mail, containing a copy of the notice of the time and place of sale, addressed to each person to whom a copy of the notice of default is to be mailed as provided in paragraphs (1) and (2).

(4) The mailing of notices in the manner set forth in paragraph (1) shall not impose upon any licensed attorney, agent, or employee of any person entitled to receive notices as herein set forth any duty to communicate the notice to the entitled person from the fact that the mailing address used by the county recorder is the address of the attorney, agent, or employee.

(d) Any person required to mail a copy of a notice of default or notice of sale to each truster or mortgagor pursuant to subdivision (b) or (c) by registered or certified mail shall simultaneously cause to be deposited in the United States mail, with postage prepaid and mailed by first-class mail, an envelope containing an additional copy of the required notice, addressed to each truster or mortgagor at the same address to which the notice is sent by registered or certified mail pursuant to subdivision (b) or (c). The person shall execute and retain an affidavit identifying the notice mailed, showing the name and residence or business address of that person, that he or she is over the age of 18 years, the date of deposit in the mail, the name and address of the trustor or mortgagor to whom sent, and that the envelope was sealed and deposited in the mail with postage fully prepaid. In the absence of fraud, the affidavit required by this subdivision shall establish a conclusive presumption of mailing.

(e) Any deed of trust or mortgage with power of sale hereafter executed upon real property may contain a request that a copy of any notice of default and a copy of any notice of sale thereunder shall be mailed to any person or party thereto at the address of the person given therein, and a copy of any notice of default and of any notice of sale shall be mailed to each of these persons at the same time and in the same manner required as though a separate request therefor had been filed by each of these persons as herein authorized. If any deed of trust or mortgage with power of sale executed after September 19, 1939, except a deed of trust or mortgage of any of the classes excepted from the provisions of Section 2924 does not contain a request of the truster or mortgagor for special notice at the address of such person given therein or

does contain such a request but no address of the person is given therein and if no request for special notice by the truster or mortgagor in substantially the form set forth in this section has subsequently been recorded, a copy of the notice of default shall be published once a week for at least four weeks in a newspaper of general circulation in the county in which the property is situated, with publication to commence within 10 days after the filing of the notice of default. In lieu of publication a copy of the notice of default may be delivered personally to the truster or mortgagor within that 10 days or at any time before publication is completed.

(f) No request for a copy of any notice filed for record pursuant to this section, no statement or allegation in any such request, and no record thereof shall affect the title to real property or be deemed notice to any person that any person requesting copies of notice has or claims any right, title or interest in, or lien or charge upon, the property described in the deed of trust or mortgage referred to therein.

SEC. 2. Section 409 of the Code of Civil Procedure is amended to read:

409. (a) In an action concerning real property or affecting the title or the right of possession of real property, the plaintiff, at the time of filing the complaint, and the defendant, at the time of filing a cross-complaint, or at any time afterwards, may record in the office of the recorder of the county in which the property is situated, a notice of the pendency of the action, containing the names of the parties, and the object of the action or cross-action, and a description of the property in that county affected thereby. This section authorizes a notice of an action concerning real property pending in any United States district court to be recorded and indexed in the same manner and in the same place as herein provided with respect to notices of action pending in courts of this state. From the time of filing such notice for record only, shall a purchaser or encumbrancer of the property affected thereby be deemed to have constructive notice of the pendency of the action as it relates to the real property and only of its pendency against parties designated by their real names.

(b) In an action concerning real property or affecting the title or the right of possession of real property, the clerk, or the judge if there is no clerk, shall issue a notice of pendency of action to a party requesting it, or an attorney of record in such an action may sign and issue a notice of pendency of action, or the person causing the notice of the pendency of the action to be recorded may obtain certification from the court in which the action is pending that an action concerning real property or affecting the title or the right of possession of real property has been filed between the named parties. Such a certification may issue ex parte. A notice of pendency of action may not be recorded, except by a public agency bringing an action in eminent domain pursuant to Title 7

(commencing with Section 1230.010) of Part 3, unless it is issued by the court, or issued by the attorney of record in the action or proceeding, or accompanied by a certified copy of the certification. The fee for issuance of the notice of pendency of action by the court, or making the certification, shall be as specified in Section 26836 of the Government Code.

(c) Except in actions brought under Title 7 (commencing with Section 1230.010) of Part 3, the person causing the notice of the pendency of the action to be recorded shall first cause a copy of the notice to be mailed, by registered or certified mail, return receipt requested to all known addresses of the adverse parties and to all owners of record as shown by the latest county assessment roll or more recent assessment information in the possession of the county assessor. A copy of the notice of the pendency of the action shall also be filed with the court in which the lawsuit is filed. Service shall also be made immediately upon each adverse party who is later brought into the action pursuant to Section 472 or 473.

(d) Any notice of the pendency of the action recorded pursuant to subdivision (a) shall be void and invalid as to any adverse party or owner of record, unless the requirements of subdivision (c) are met for the party or owner, and a proof of service, as set forth in Section 1013a, has been recorded with the notice of the pendency of the action. If there is no known address for service on an adverse party or owner as required under subdivision (c), then as to that party a declaration under penalty of perjury to such effect shall be recorded instead of the proof of service described above, and the service on that party shall not be required.

CHAPTER 155

An act to amend Section 2656 of the Unemployment Insurance Code, relating to disability benefits.

[Approved by Governor July 4, 1985. Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 2656 of the Unemployment Insurance Code is amended to read:

2656. (a) An individual eligible to receive disability benefits who receives wages or regular wages from his or her employer during the period of his or her disability shall be paid disability benefits for any day in an amount not to exceed his or her maximum daily amount which together with the wages or regular wages does not exceed for that day one-seventh of his or her weekly wage, exclusive of wages

paid for overtime work, immediately prior to the commencement of his or her disability.

(b) For purposes of this section, to determine the wages or regular wages received by the eligible individual, the amount as stated by the individual shall be presumed to be accurate. This presumption is one affecting the burden of producing evidence.

CHAPTER 156

An act to amend Section 8193 of the Government Code, to amend Section 50192 of, and to add Section 50177 to, the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 8193 of the Government Code is amended to read:

8193. (a) During the period commencing on July 1, 1982, and ending when 600 newly constructed dwelling units have been completed and initially occupied, the authority shall have currently occupied or make available at affordable rents to low-income households at least 25 percent of the existing dwelling units.

(b) Beginning when 600 newly constructed dwelling units have been completed and initially occupied, the authority shall have currently occupied or make available at affordable rents to low-income households at least 25 percent of the total number of dwelling units located on property leased by the authority from the department.

(c) The number of dwelling units which are required to be made available in the manner specified in subdivisions (a) and (b) shall be increased or decreased to reflect increases or decreases in the number of the units which are leased by the authority from the department.

(d) The term "existing dwelling units," as used in this section, means residential units located on property which was leased by the authority from the department on July 1, 1979.

(e) The term "newly constructed dwelling units," as used in this section, means residential units located on property which is first leased by the authority from the department after July 1, 1979.

(f) The term "affordable rents," as used in this section, means rents (including utility allowances established by the authority) not exceeding those allowed under the United States Department of Housing and Urban Development Section 8 Housing Assistance Payments Program (42 U.S.C. Sec. 1437f) or its successor.

(g) The term "low-income households," as used in this section, means persons and families whose income does not exceed 80 percent of the median income of the Sacramento County Standard Metropolitan Statistical Area as adjusted by the United States Department of Housing and Urban Development.

(h) During the period commencing on January 1, 1980, and ending when 800 newly constructed dwelling units have been completed and occupied, the authority shall establish a schedule of rents designed to make available to low-income households not less than 400 units at as close to affordable rents as the authority deems practicable in light of its budgetary needs regarding its duties and obligations. The schedule shall be designed to impose market rate rents for remaining units leased by the authority from the department.

(i) During period set forth in subdivision (h), rents for the 400 units referred to in subdivision (h) shall only be increased by an amount the authority determines is equal to the increase in the cost of operation and maintenance (including overhead) of the units. The foregoing determination shall be based on evidence presented at a regular or special meeting of the authority's governing body.

(j) During the period commencing on January 1, 1980, and ending when 600 newly constructed dwelling units have been completed and occupied, the provisions of subdivision (b) shall be a goal of the authority, which the authority shall pursue, giving due consideration to the provisions of the redevelopment plans and other duties and obligations of the authority. To this end, the authority shall utilize to the extent it deems appropriate:

(1) Tax exempt financing for the construction of residential dwelling units, and

(2) Federal and state programs for the subsidization of low-income households.

(k) On or before November 1, 1980, and annually thereafter, the authority shall make public a status report regarding the authority's progress in achieving the housing production goals set forth in subdivisions (a) and (b). The status report shall (1) set forth the degree to which the authority has achieved this goal, and (2) specify programs the authority intends to pursue to achieve this goal.

(l) At the time the authority leases property for newly constructed dwelling units, it shall enter into a written lease with the developer of the units, designating the number of the units, if any, to be made available on a priority basis within that development to low-income households. If the number of units occupied by low-income households in the development ever falls below the designated number, then units which become available for occupancy shall, subject to available subsidies, be made available on a priority basis to low-income households until the number of units so occupied equals at least the number specified in the agreement. The authority may from time to time review agreements designating these units and, subject to agreement with the developer or his or

her successors, may increase the number of units to be made available to low-income households. For the purpose of determining whether the authority is satisfying subdivision (b), units designated pursuant to this agreement shall be conclusively presumed to be available to low-income households at affordable rent. This presumption shall not apply in an action to enforce any provision of any lease or other agreement between the authority and the developer of newly constructed units. The authority shall monitor and enforce the provisions of this subdivision.

SEC. 2. Section 50177 is added to the Health and Safety Code, to read:

50177. The Treasurer, or his or her designee, is designated as the state official to certify that an issue of qualified mortgage bonds meets the requirements of subsection (g) of Section 103A of the Internal Revenue Code of 1954, as amended, (42 U.S.C. Sec. 103A(g)) and to take any and all actions as may be necessary or appropriate in connection therewith.

SEC. 3. Section 50192 of the Health and Safety Code is amended to read:

50192. Any local agency may by written agreement assign to any other issuer having the authority to issue qualified mortgage bonds under the laws of this state all or any part of the local agency's allocation pursuant to Section 50189 for the calendar year, but only if the assignment is solely for use by the issuer to provide financing for properties located within the territory of the assigning local agency (including a proportionate share of costs of issuance, underwriters discount, capitalized interest, reserve funds and similar expenses associated with the financing), provided that the assignment shall not be deemed ineffective if, after issuance of the qualified mortgage bonds and for reasons beyond the control of the issuer, the issuer is unable to use any portion of the proceeds of such qualified mortgage bonds to provide financing for properties located within the territory of the assigning local agency, as required by the assigned allocation, and the proceeds are instead used to redeem the qualified mortgage bonds or to provide financing for properties authorized to be financed under the state law under which the bonds were issued and located within the county within which the assigning local agency is located.

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 facilitate the issuance of bonds in a timely and orderly fashion to minimize the costs of borrowing, and to provide for additional affordable housing as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 157

An act to amend Section 683.2 of, and to add Chapter 7 (commencing with Section 887.010) to Title 5 of Part 2 of Division 2 of, the Civil Code, and to amend Section 701.680 of the Code of Civil Procedure, relating to property.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985.]

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

SECTION 1. Section 683.2 of the Civil Code is amended to read:

683.2. (a) Subject to the limitations and requirements of this section, in addition to any other means by which a joint tenancy may be severed, a joint tenant may sever a joint tenancy in real property as to the joint tenant's interest without the joinder or consent of the other joint tenants by any of the following means:

(1) Execution and delivery of a deed that conveys legal title to the joint tenant's interest to a third person, whether or not pursuant to an agreement that requires the third person to reconvey legal title to the joint tenant.

(2) Execution of a written instrument that evidences the intent to sever the joint tenancy, including a deed that names the joint tenant as transferee, or of a written declaration that, as to the interest of the joint tenant, the joint tenancy is severed.

(b) Nothing in this section authorizes severance of a joint tenancy contrary to a written agreement of the joint tenants, but a severance contrary to a written agreement does not defeat the rights of a purchaser or encumbrancer for value in good faith and without knowledge of the written agreement.

(c) Severance of a joint tenancy of record by deed, written declaration, or other written instrument pursuant to subdivision (a) is not effective to terminate the right of survivorship of the other joint tenants as to the severing joint tenant's interest unless one of the following requirements is satisfied:

(1) Before the death of the severing joint tenant, the deed, written declaration, or other written instrument effecting the severance is recorded in the county where the real property is located.

(2) The deed, written declaration, or other written instrument effecting the severance is executed and acknowledged before a notary public by the severing joint tenant not earlier than three days before the death of that joint tenant and is recorded in the county where the real property is located not later than seven days after the death of the severing joint tenant.

(d) Nothing in subdivision (c) limits the manner or effect of:

(1) A written instrument executed by all the joint tenants that severs the joint tenancy.

(2) A severance made by or pursuant to a written agreement of all the joint tenants.

(3) A deed from a joint tenant to another joint tenant.

(e) Subdivisions (a) and (b) apply to all joint tenancies in real property, whether the joint tenancy was created before, on, or after January 1, 1985, except that in the case of the death of a joint tenant before January 1, 1985, the validity of a severance under subdivisions (a) and (b) is determined by the law in effect at the time of death. Subdivisions (c) and (d) do not apply to or affect a severance made before January 1, 1986, of a joint tenancy.

SEC. 2. Chapter 7 (commencing with Section 887.010) is added to Title 5 of Part 2 of Division 2 of the Civil Code, to read:

CHAPTER 7. ABANDONED EASEMENTS

887.010. As used in this chapter, "easement" means a burden or servitude upon land, whether or not attached to other land as an incident or appurtenance, that allows the holder of the burden or servitude to do acts upon the land.

887.020. This chapter does not apply to an easement that is part of a unified or reciprocal system for the mutual benefit of multiple parties.

887.030. This chapter supplements and does not limit or otherwise affect the common law governing abandonment of an easement or any other procedure provided by statute or otherwise for clearing an abandoned easement from title to real property.

887.040. (a) The owner of real property subject to an easement may bring an action to establish the abandonment of the easement and to clear record title of the easement.

(b) The action shall be brought in the superior court of the county in which the real property subject to the easement is located.

(c) The action shall be brought in the same manner and shall be subject to the same procedure as an action to quiet title pursuant to Chapter 4 (commencing with Section 760.010) of Title 10 of Part 2 of the Code of Civil Procedure, to the extent applicable.

887.050. (a) For purposes of this chapter, an easement is abandoned if all of the following conditions are satisfied for a period of 20 years immediately preceding commencement of the action to establish abandonment of the easement:

(1) The easement is not used at any time.

(2) No separate property tax assessment is made of the easement or, if made, no taxes are paid on the assessment.

(3) No instrument creating, reserving, transferring, or otherwise evidencing the easement is recorded.

(b) This section applies notwithstanding any provision to the contrary in the instrument creating, reserving, transferring, or otherwise evidencing the easement or in another recorded document, unless the instrument or other document provides an earlier expiration date.

887.060. (a) The owner of an easement may at any time record a notice of intent to preserve the easement.

(b) In lieu of the statement of the character of the interest claimed and the record location of the documents creating or evidencing the easement claimed, as otherwise required by paragraph (2) of subdivision (b) of Section 880.330, and in lieu of the legal description of the real property in which the interest is claimed, as otherwise required by paragraph (3) of subdivision (b) of Section 880.330, and notwithstanding the provisions of Section 880.340, or any other provision in this title, a notice of intent to preserve an easement may refer generally and without specificity to any or all easements claimed by the claimant in any real property situated in the county.

(c) An easement is not abandoned for purposes of this chapter if either of the following occurs:

(1) A notice of intent to preserve the easement is recorded within 20 years immediately preceding commencement of the action to establish the abandonment of the easement.

(2) A notice of intent to preserve the easement is recorded pursuant to Section 887.070 after commencement of the action to establish the abandonment of the easement and before judgment is entered in the action.

887.070. In an action to establish the abandonment of an easement pursuant to this chapter, the court shall permit the owner of the easement to record a late notice of intent to preserve the easement as a condition of dismissal of the action, upon payment into court for the benefit of the owner of the real property the litigation expenses attributable to the easement or portion thereof as to which the notice is recorded. As used in this section, the term "litigation expenses" means recoverable costs and expenses reasonably and necessarily incurred in preparation for the action, including a reasonable attorney's fee.

887.080. An abandoned easement is unenforceable and is deemed to have expired. A court order establishing abandonment of an easement pursuant to this chapter is equivalent for all purposes to a conveyance of the easement to the owner of the real property.

887.090. Subject to Sections 880.370 (grace period for recording notice) and 887.020, this chapter applies to all easements, whether executed or recorded before, on, or after January 1, 1986.

SEC. 3. Section 701.680 of the Code of Civil Procedure, as amended by Chapter 41 of the Statutes of 1985, is amended to read:

701.680. (a) Except as provided in paragraph (1) of subdivision (c), a sale of property pursuant to this article is absolute and may not be set aside for any reason.

(b) If the judgment is reversed, vacated, or otherwise set aside, the judgment debtor may recover from the judgment creditor the proceeds of a sale pursuant to the judgment with interest at the rate on money judgments to the extent the proceeds were applied to the satisfaction of the judgment.

(c) If the sale was improper because of irregularities in the proceedings, because the property sold was not subject to execution, or for any other reason:

(1) The judgment debtor, or the judgment debtor's successor in interest, may commence an action within six months after the date of sale to set aside the sale if the purchaser at the sale is the judgment creditor. Subject to paragraph (2), if the sale is set aside, the judgment of the judgment creditor is revived to reflect the amount that was satisfied from the proceeds of the sale and the judgment creditor is entitled to interest on the amount of the judgment as so revived as if the sale had not been made.

(2) The judgment debtor, or the judgment debtor's successor in interest, may recover damages caused by the impropriety. If damages are recovered against the judgment creditor, they shall be offset against the judgment to the extent the judgment is not satisfied. If damages are recovered against the levying officer, they shall be applied to the judgment to the extent the judgment is not satisfied.

(d) For the purposes of subdivision (c), the purchaser of the property at the sale is not a successor in interest.

CHAPTER 158

An act to amend Section 71003 of, to add Section 71005 to, and to repeal and add Section 71001 of, the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 71001 of the Education Code is repealed.

SEC. 2. Section 71001 is added to the Education Code, to read:

71001. (a) Except for the student member and the faculty member, the terms of office of the members of the board appointed by the Governor shall be as follows:

(1) To the positions expiring on December 1, 1985, the Governor shall appoint two persons whose terms shall expire on January 15, 1989.

(2) To the positions expiring on November 30, 1986, the Governor shall appoint three persons whose terms shall expire on January 15, 1988; three persons whose terms shall expire on January 15, 1990; and one person whose term shall expire on January 15, 1991.

(3) To the position expiring on January 2, 1987, the Governor shall appoint one person whose term shall expire on January 15, 1991.

(4) Commencing January 15, 1987, all terms of office of the

members of the board, except the terms of the student member and the faculty member appointed by the Governor, shall be four years.

(b) Each term of office shall commence at the expiration of the preceding term.

(c) A member whose term has expired shall continue to discharge the duties of office until his or her successor is appointed by the Governor.

SEC. 3. Section 71003 of the Education Code is amended to read:

71003. (a) Except for the student member and the faculty member appointed by the Governor, any vacancy in an appointed position on the board shall be filled by appointment by the Governor, subject to confirmation by two-thirds of the Senate. A vacancy in the office of the student member or the office of the faculty member shall be filled by appointment by the Governor.

(b) The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

SEC. 4. Section 71005 is added to the Education Code, to read:

71005. The board annually shall select two of its members as president and vice president, respectively.

SEC. 5. The Legislature recognizes that after the enactment of Chapter 1184 of the Statutes of 1977, the members of the Board of Governors of the California Community Colleges have not served staggered terms which commence and expire on a fixed date. The Legislature finds and declares that this has produced uncertainty about the commencement and expiration of the terms of office for members of the board.

It is the intent of the Legislature to clarify the provisions governing the terms of office for members of the Board of Governors of the California Community Colleges by specifically providing for staggered terms for the members appointed by the Governor, other than the student member and the faculty member, and to fix January 15 as the commencement and expiration date of those terms.

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 make this act applicable to future appointments to the Board of Governors of the California Community Colleges and thereby restore continuity to the board and to clarify current law, it is necessary that this act take effect immediately.

CHAPTER 159

An act to amend Sections 17240, 17250, 17251, 17270, 17505, 18033, 18036, 18500, 18510, 18530, 19411.1, 24369, 24372, and 24416 of, to add Sections 18802.2, 24372.3, and 25401c to, and to repeal Sections 17263, 17273, 17279, 18032, 18034, and 18523 of, the Revenue and Taxation

Code, to amend Section 13028 of, and to add Sections 13028.1, 13028.5, and 13028.6 to, the Unemployment Insurance Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 17240 of the Revenue and Taxation Code is amended to read:

17240. (a) No deduction shall be allowed for any of the following:

(1) That portion of contributions (including carryovers from prior years) which exceeds the maximum amount specified in Section 17241.

(2) Contributions allowed by Section 170(g) of the Internal Revenue Code (relating to maintenance of students).

(3) Contributions, allowed by Section 170(i) of the Internal Revenue Code, made prior to January 1, 1984.

(4) Designations provided by Section 18500 (relating to the State Children's Trust Fund).

(5) Designations provided by Section 18510 (relating to the California Seniors' Fund).

(6) Designations provided by Section 18520 (relating to the Rare and Endangered Species Program).

(7) Designations provided by Section 18530 (relating to the United States Olympic Committee Fund).

(b) A deduction shall be allowed for all of the following:

(1) Transportation expenses described in Section 17242.

(2) Political contributions described in Section 17245.

(c) In determining the contribution deduction the following shall apply:

(1) Artistic property defined in Section 17243 shall be included and treated as a capital asset for taxable years beginning before January 1, 1985, and shall be subject to the reduction under Section 170(e)(1) of the Internal Revenue Code.

(2) The definitions and percentage limitations prescribed in Section 18162.5 shall be used in making the reduction required to be made under Section 170(e)(1) of the Internal Revenue Code for appreciated property.

(d) In determining the carryover of excess contributions as stated in Section 170(d)(1)(A) of the Internal Revenue Code, the carryover shall be determined as the amount by which the taxpayer's charitable contributions for the contribution year (as described in Section 170(b)(1)(A) of the Internal Revenue Code) exceed the amount allowed by Section 17241 (computed without regard to the taxpayer's charitable contributions).

SEC. 2. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) The provisions of Section 168 of the Internal Revenue Code shall not be used to determine what is a reasonable allowance for purposes of Section 167(a) of the Internal Revenue Code, except as provided in Section 17250.5.

(b) No deduction shall be allowed for any of the following:

(1) Amortization of certain railroad rolling stock as provided for by Section 184 of the Internal Revenue Code.

(2) Amortization of railroad grading and tunnel bores as provided for by Section 185 of the Internal Revenue Code.

(c) The deduction for amortization of pollution control facilities shall be determined in accordance with Section 169 of the Internal Revenue Code, except that the deduction shall be available only with respect to facilities located in this state, and the "state certifying authority," as defined in Section 169(d)(2) of the Internal Revenue Code, means the State Department of Health Services.

(d) The capitalization of expenditures incurred in planting and developing fruit and nut groves shall be determined in accordance with Section 17261, in lieu of Section 278 of the Internal Revenue Code.

(e) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 60-month period for taxable years beginning before January 1, 1987.

SEC. 3. Section 17251 of the Revenue and Taxation Code is amended to read:

17251. (a) Every taxpayer at his or her election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any cogeneration equipment (as defined in subdivision (k)), or alternative energy equipment (as defined in subdivision (*l*)), based on a period of either 12 months or 60 months. That amortization deduction shall be an amount with respect to each month of that period within the taxable year, equal to the amortizable basis of the cogeneration equipment, or alternative energy equipment at the end of that month divided by the number of months (including the month for which the deduction is computed) remaining in the period. That amortizable basis at the end of the month shall be computed without regard to the amortization deduction for that month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to that cogeneration equipment, or alternative energy equipment for that month provided by Section 167 of the Internal Revenue Code. The amortization deduction provided by this section shall be in lieu of the solar tax credit provided by Section 17052.5. The 12-month or 60-month amortization period shall begin, as to any cogeneration equipment, or alternative energy equipment, at the election of the taxpayer, with the month following the month in which that facility was completed or acquired, or with the succeeding taxable year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 12-month or 60-month amortization period with the month following the month in which the cogeneration equipment, or alternative energy equipment is completed or acquired, or with the taxable year succeeding the taxable year in which that cogeneration equipment, or alternative energy equipment is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of that election. The election of the 12-month amortization period shall be irrevocable. The Franchise Tax Board, in determining the eligibility of alternative energy equipment for which a taxpayer has filed a statement of election, may consult with the California Energy Commission regarding the technical qualifications of that equipment.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making that election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of that month. The depreciation deduction provided under Section 167 of the Internal Revenue Code shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to that cogeneration equipment, or alternative energy equipment.

(d) (1) For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of the cogeneration equipment, or alternative energy equipment which may be amortized under this section. For purposes of the deduction for alternative energy equipment provided in this section, the amortizable basis shall be reduced by the amount of any grant provided by a public entity for that alternative energy equipment.

(2) (A) If the cogeneration equipment, or alternative energy equipment has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of that cogeneration equipment, or alternative energy equipment shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of that cogeneration equipment, or alternative energy equipment, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of that cogeneration equipment, or alternative energy equipment.

(B) The amortizable basis of the cogeneration equipment, or alternative energy equipment with respect to which an election under this section is in effect shall not be increased, for purposes of

this section, for additions or improvements after the amortization period has begun.

(e) The depreciation deduction provided by Section 167 of the Internal Revenue Code shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(f) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(g) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see Section 1245 of the Internal Revenue Code.

(h) The amendments made to subdivision (d) of former Section 17226 by the 1977–78 Regular Session of the Legislature shall apply to taxable years beginning after December 31, 1976. Those amendments shall not apply in the case of any property with respect to which the amortization period under former Section 17226 began before January 1, 1977.

(i) The 12-month period of amortization provided for under subdivision (a) shall be available only for cogeneration equipment or alternative energy equipment located in this state.

(j) This section shall not apply with respect to cogeneration equipment, or alternative energy equipment placed in service after December 31, 1985.

(k) For purposes of this section, "cogeneration equipment" shall have the same meaning as it is described in Section 25134 of the Public Resources Code.

(*l*) "Alternative energy equipment" means equipment used to produce or convert energy from the following sources:

(1) Cogeneration.

(2) Solar energy.

(3) Geothermal energy.

(4) Biomass energy.

(5) Small hydroelectric energy.

(m) "Biomass energy" means the use of vegetative material to generate steam, electricity, or mechanical energy by direct burning or conversion to another form of fuel.

(n) "Solar energy" means the use of solar or wind energy devices for production of electricity, mechanical work, space heating, water heating, or industrial process heat.

(o) "Geothermal energy" means the process of using heat from the earth to generate electricity or for heating purposes.

(p) "Small hydroelectric energy" means the use of hydroelectric generating equipment with an installed capacity of less than 25 megawatts.

(q) For the purposes of this section, "alternative energy equipment" shall not apply to and no claim shall be made for:

(1) Equipment for any project for which a building permit or binding financial commitment has been applied for before January 1, 1980.

(2) Equipment that uses either fossil fuel or nuclear fuel as its primary energy source.

(r) Property described in this section which is amortized for 12 or 60 months shall be considered to be Section 1250 property under the Internal Revenue Code and for the purposes of that section, "additional depreciation" means amortization adjustments in excess of the amount of depreciation adjustments which would have resulted under the straight line method.

SEC. 4. Section 17263 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 17270 of the Revenue and Taxation Code is amended to read:

17270. (a) For purposes of Section 162(a)(2) of the Internal Revenue Code, relating to travel expenses, both of the following shall apply:

(1) The place of residence of a member of the Legislature within the district represented shall be considered the tax home.

(2) The provisions of Section 162(h) of the Internal Revenue Code, relating to state legislators' travel expenses away from home, shall not be applied.

(3) The provisions of Section 274(h)(6) of the Internal Revenue Code, relating to treatment of conventions in certain Caribbean countries shall not be applied.

(b) The denial of deductions for expenses and interest relating to tax-exempt income shall be determined in accordance with Section 17280, in lieu of Section 265 of the Internal Revenue Code.

(c) The expenditures to remove architectural and transportation barriers shall be determined in accordance with Section 17262, in lieu of Section 190 of the Internal Revenue Code.

(d) The provisions of Section 280C of the Internal Revenue Code (relating to credits for work incentive programs (Section 40 of the Internal Revenue Code) and employment of certain new employees (Section 44B of the Internal Revenue Code)) shall not be applicable.

(e) The provisions of Section 280D of the Internal Revenue Code (relating to credits for windfall profits tax) shall not be applicable.

SEC. 7. Section 17273 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 17279 of the Revenue and Taxation Code is repealed.

SEC. 8.5. Section 17505 of the Revenue and Taxation Code is amended to read:

17505. The taxation of lump-sum distributions shall be determined in accordance with Section 17085, in lieu of Section 402(e) of the Internal Revenue Code.

SEC. 9. Section 18032 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 18033 of the Revenue and Taxation Code is amended to read:

18033. Section 1014(b) of the Internal Revenue Code, relating to property acquired from a decedent, shall be modified as follows:

(a) Sections 1014(b) (6) and (7) shall not be applicable.

(b) The following property shall be considered to have been acquired from or to have passed from the decedent:

(1) In case of decedents dying on or after January 1, 1976, property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any state, territory or possession of the United States or any foreign country, if the decedent's one-half of the whole of the community interest in such property was transferred, within the meaning of Chapter 3 of the California Inheritance Tax Law, to someone other than the surviving spouse.

(2) In the case of decedents dying after April 8, 1953, but before January 1, 1976, property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any state, territory, or possession of the United States or any foreign country, if at least one-half of the whole of the community interest in such property was includable in determining the value of the decedent's gross estate under Chapter 3 of the California Inheritance Tax Law.

SEC. 11. Section 18034 of the Revenue and Taxation Code is repealed.

SEC. 12. Section 18036 of the Revenue and Taxation Code is amended to read:

18036. (a) In addition to the adjustments to basis provided by Section 1016(a) of the Internal Revenue Code, a proper adjustment shall also be made for amounts allowed as deductions as deferred expenses under subdivision (b) of former Section 17689 or Section 17689.5 (relating to certain exploration expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under that section for the taxable year and prior years.

(b) Notwithstanding the provisions of Section 1016(a) of the Internal Revenue Code, no adjustment to basis shall be made for either of the following:

(1) Abandonment fees paid in respect of property on which the open-space easement is terminated under Section 51061 or 51093 of the Government Code.

(2) Tax recoupment fees paid under Section 51142 of the Government Code.

SEC. 13. Section 18500 of the Revenue and Taxation Code is amended to read:

18500. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the State Children's Trust Fund.

(b) The contribution shall be in full dollar amounts and may be

made individually by each signatory on the joint return.

(c) A designation under subdivision (a) shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account do not exceed the tax liability, if any, shown thereupon, the return shall be treated as though no designation had been made. In the event that no designee is specified, the contribution shall, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article, be transferred to the General Fund. The taxpayer shall be notified in cases where the discrepancy between the amount actually available for designation and the amount designated exceeds ten dollars ($10).

(d) If a taxpayer designates a contribution to more than one account, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the form of the return to include a space labeled the "State Children's Trust Fund" to allow for the designation permitted under subdivision (a).

SEC. 14. Section 18510 of the Revenue and Taxation Code is amended to read:

18510. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Seniors' Fund established by Section 18511 to be used to conduct the sessions of the California Senior Legislature and to support its ongoing activities on behalf of older persons.

(b) The contribution shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation under subdivision (a) shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable.

In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account do not exceed the tax liability, if any, shown thereupon, the return shall be treated as though no designation had been made.

In the event that no designee is specified, the contribution shall, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article, be transferred to the General Fund.

The taxpayer shall be notified in cases where the discrepancy between the amount actually available for designation and the amount designated exceeds ten dollars ($10).

(d) In the event a taxpayer designates a contribution to more than one account, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return

to include a space labeled the "California Seniors' Fund" to allow for the designation permitted under subdivision (a). The forms shall also include in the instructions the information that the contribution may be in the amount of one dollar ($1) or more and that the contribution will be used to conduct the sessions of the California Senior Legislature and to support its ongoing activities on behalf of older persons.

SEC. 15. Section 18523 of the Revenue and Taxation Code is repealed.

SEC. 16. Section 18530 of the Revenue and Taxation Code is amended to read:

18530. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the United States Olympic Committee Fund, which is hereby created. The contribution shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(b) A designation under subdivision (a) shall be made with respect to any taxable year on the individual return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account do not exceed the taxpayer's liability, if any, shown thereupon, the return shall be treated as though no designation had been made. Overpayments which are insufficient to satisfy the total amount designated shall be allocated among the designees on a pro rata basis. In the event a fund, person, or account which is not authorized by statute is designated or if no designee is specified, the contribution shall be transferred to the General Fund after reimbursement of the Franchise Tax Board and the Controller pursuant to Section 18532. The taxpayer shall be notified in cases where the discrepancy between the amount actually available for designation and the amount designated exceeds ten dollars ($10).

(c) The Franchise Tax Board shall design the forms and instructions to ensure effective administration of this article.

SEC. 17. Section 18802.2 is added to the Revenue and Taxation Code, to read:

18802.2. Every individual, partnership, corporation, joint stock company or association, insurance company, business trust, or so-called Massachusetts trust, shall be required to file a return for certain payments of remuneration for services in accordance with the provisions of Section 6041A of the Internal Revenue Code, except that no return shall be required if a statement with respect to the services is required to be furnished under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code (relating to withholding tax on wages) or Section 18802.5, and no return shall be required with respect to direct sales pursuant to Section 6041A(b) of the Internal Revenue Code.

SEC. 17.5. Section 19411.1 of the Revenue and Taxation Code is amended to read:

19411.1. (a) In addition to any criminal penalty provided by law if:

(1) Any individual makes a statement under Section 13040, 13041, or 13042 of the Unemployment Insurance Code which results in a decrease in the amounts deducted and withheld under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code; and

(2) As of the time the 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. Any penalty so imposed shall be paid upon notice and demand from the Franchise Tax Board and shall be collected as a tax.

(b) The Franchise Tax Board may waive (in whole or in part) the penalty imposed under subdivision (a) if the taxes imposed under this part with respect to the individual for the taxable year are equal to or less than the sum of both of the following:

(1) The credits against those taxes allowed by Chapter 2 (commencing with Section 17041) and Section 18551.1.

(2) The payments of estimated tax which are considered payments on account of those taxes.

(c) This section supersedes Section 13101 of the Unemployment Insurance Code and shall apply to acts and failures to act after December 31, 1981.

SEC. 18. Section 24369 of the Revenue and Taxation Code is amended to read:

24369. The deduction for soil and water conservation expenses shall be determined in accordance with Section 175 of the Internal Revenue Code.

SEC. 19. Section 24372 of the Revenue and Taxation Code is amended to read:

24372. (a) Every taxpayer at its election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any cogeneration equipment (as defined in subdivision (j)), or alternative energy equipment (as defined in subdivision (k)), based on a period of either 12 months or 60 months. Such amortization deduction shall be an amount, with respect to each month of that period within the income year, equal to the amortizable basis of the cogeneration equipment, or alternative energy equipment at the end of that month divided by the number of months (including the month for which the deduction is computed) remaining in the period. That amortizable basis at the end of the month shall be computed without regard to the amortization deduction for that month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to that cogeneration equipment, or alternative energy equipment for that month provided by Section 24349. The amortization deduction provided by this section shall be in lieu of the solar tax credit provided by Section 23601. The 12-month or 60-month amortization period shall begin, as to any cogeneration equipment,

or alternative energy equipment, at the election of the taxpayer, with the month following the month in which that facility was completed or acquired, or with the succeeding income year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 12-month or 60-month amortization period with the month following the month in which the cogeneration equipment, or alternative energy equipment is completed or acquired, or with the income year succeeding the income year in which that cogeneration equipment, or alternative energy equipment is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election. The election of the 12-month amortization period shall be irrevocable. The Franchise Tax Board, in determining the eligibility of alternative energy equipment for which a taxpayer has filed a statement of election, may consult with the California Energy Commission regarding the technical qualifications of such equipment.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of that month. The depreciation deduction provided under Section 24349 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to that cogeneration equipment, or alternative energy equipment.

(d) (1) For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of the cogeneration equipment, or alternative energy equipment which may be amortized under this section. For purposes of the deduction for alternative energy equipment provided in this section, the amortizable basis shall be reduced by the amount of any grant provided by a public entity for that alternative energy equipment.

(2) (A) If the cogeneration equipment, or alternative energy equipment has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of that cogeneration equipment, or alternative energy equipment shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of that cogeneration equipment or alternative energy equipment, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of that cogeneration equipment, or alternative energy equipment.

(B) The amortizable basis of the cogeneration equipment, or

alternative energy equipment with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(e) The depreciation deduction provided by Section 24349 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(f) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(g) The amendment made to former subdivision (d) by the 1977–78 Legislature shall apply to income years beginning after December 31, 1976. Those amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

(h) The 12-month period of amortization provided for under subdivision (a) shall be available only for cogeneration equipment, or alternative energy equipment located in this state.

(i) This section shall not apply with respect to cogeneration equipment, or alternative energy equipment placed in service after December 31, 1985.

(j) For purposes of this section, "cogeneration equipment" shall have the same meaning as it is described in Section 25134 of the Public Resources Code.

(k) "Alternative energy equipment" means equipment used to produce or convert energy from the following sources:

(1) Cogeneration.

(2) Solar energy.

(3) Geothermal energy.

(4) Biomass energy.

(5) Small hydroelectric energy.

(*l*) "Biomass energy" means the use of vegetative material to generate steam, electricity, or mechanical energy by direct burning or conversion to another form of fuel.

(m) "Solar energy" means the use of solar or wind energy devices for production of electricity, mechanical work, space heating, water heating, or industrial process heat.

(n) "Geothermal energy" means the process of using heat from the earth to generate electricity or for heating purposes.

(o) "Small hydroelectric energy" means the use of hydroelectric generating equipment with an installed capacity of less than 25 megawatts.

(p) "Cogeneration" means the use of cogeneration technology as defined in Section 25134 of the Public Resources Code. For the purposes of this section, "alternative energy equipment" shall not apply to and no claim shall be made for:

(1) Equipment for any project for which a building permit or binding financial commitment has been applied for before January

1, 1980.

(2) Equipment that uses either fossil fuel or nuclear fuel as its primary energy source.

SEC. 20. Section 24372.3 is added to the Revenue and Taxation Code, to read:

24372.3. Every taxpayer at its election shall be entitled to a deduction for amortization of pollution control facilities in accordance with Section 169 of the Internal Revenue Code, except that the deduction shall be available only with respect to facilities located in this state and the "state certifying authority," as defined in Section 169(d)(2) of the Internal Revenue Code, means the State Department of Health Services.

SEC. 20.5. Section 24416 of the Revenue and Taxation Code is amended to read:

24416. A net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) The deduction shall be allowed only to a "qualified taxpayer" as provided by Section 24417.

(b) Net operating losses attributable to years beginning before January 1, 1984, shall not be allowed.

(c) Net operating loss carrybacks shall not be allowed.

(d) The provisions of Section 172(b)(1)(E), (H), and (J) of the Internal Revenue Code shall not apply. To the extent applicable to California law, net operating losses attributable to entities with losses described by Section 172(b)(1)(J) shall be applied in accordance with Section 172(b)(1)(A) and (B) of the Internal Revenue Code.

(e) Corporations whose income is subject to the provisions of Sections 25101 or 25101.15 shall made the computations required by Section 25110.

SEC. 21. Section 25401c is added to the Revenue and Taxation Code, to read:

25401c. A return shall be required to be filed for certain payments of remuneration for services in accordance with Section 6041A of the Internal Revenue Code, except that no return shall be required if a statement with respect to the services is required to be furnished under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code (relating to withholding tax on wages), and no return shall be required with respect to direct sales pursuant to Section 6041A(b) of the Internal Revenue Code.

SEC. 22. Section 13028 of the Unemployment Insurance Code is amended to read:

13028. (a) For purposes of this division (and so much of Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code as relates to this division) pensions, annuities, and other deferred income, as described in Section 3405 of the Internal Revenue Code, are wages and subject to withholding under this division.

(b) If an individual makes an election under Section 3405 (a) (2) or Section 3405 (b) (3) of the Internal Revenue Code not to have tax withheld, that election shall apply to withholding under this division, unless the individual elects, with the consent of the payer, to have those payments subject to withholding under this division. If an individual has not made an election under Section 3405 (a) (2) or Section 3405 (b) (3) of the Internal Revenue Code, that individual may elect to exclude those payments from withholding under this division. Elections provided in this subdivision shall be made pursuant to regulations of the director.

(c) Where Section 3405 of the Internal Revenue Code provides that tables or other computational procedures shall be prescribed by the Secretary of the Treasury, for the purposes of this division, any of the following amounts may be withheld, upon election of the payer:

(1) An amount determined by the method prescribed under Section 13020.

(2) A designated dollar amount as requested by the payee.

(3) Ten percent of the amount of federal withholding computed pursuant to Section 3405 of the Internal Revenue Code.

(d) Where the amount of withholding computed pursuant to subdivision (b) is less than ten dollars ($10) per month, the payer shall not be required to withhold that amount.

(e) This section shall not apply to pensions, annuities, and other deferred income of payees with addresses outside this state, as shown on the most current records of the payer.

(f) The department shall, in consultation with the affected payers and payees, issue regulations to implement this section.

Those regulations shall provide for delay (but not beyond January 1, 1987) of the application of this section with respect to any payer or class of payers until such time as the payers are able to comply without undue hardship with the requirements of this section. In that case, no retroactive compliance shall be required.

SEC. 23. Section 13028.1 is added to the Unemployment Insurance Code, to read:

13028.1. If the director determines that nonpayment of tax by a nonresident under the income tax laws of this state may occur, the director shall notify the payer of payments described in subdivision (a) of Section 13028 that withholding shall be made from those payments. Upon notice from the director, the payer shall withhold from those payments as if they were subject to Section 13020. The director shall also notify the payee that withholding has been ordered pursuant to this section, and the reason for his or her determination that nonpayment of tax may occur.

SEC. 24. Section 13028.5 is added to the Unemployment Insurance Code, to read:

13028.5. (a) For purposes of this division (and so much of Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code as relates to this division) any supplemental

unemployment compensation benefit paid to an individual shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

(b) For purposes of subdivision (a), "supplemental unemployment compensation benefits" means amounts which are paid to an employee, pursuant to a plan to which the employer is a party, because of an employee's involuntary separation from employment (whether or not that separation is temporary), resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, but only to the extent those benefits are includable in the employee's gross income.

SEC. 25. Section 13028.6 is added to the Unemployment Insurance Code, to read:

13028.6. (a) For purposes of this division (and so much of Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code as relates to this division), any payment to an individual of sick pay which does not constitute wages (determined without regard to this subdivision), if at the time the payment is made a request that such sick pay be subject to withholding under this division is in effect, shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

(b) For purposes of this subdivision, "sick pay" means any amount which satisfies both of the following:

(1) Is paid to an employee pursuant to a plan to which the employer is a party.

(2) Constitutes remuneration or a payment in lieu of remuneration for any period during which the employee is temporarily absent from work on account of sickness or personal injuries.

(c) If a payee makes a request that any sick pay be subject to withholding under this chapter, the amount to be deducted and withheld under this chapter from any payment to which that request applies shall be an amount (not less than a minimum amount determined by the Franchise Tax Board) specified by the payee in that request. The amount deducted and withheld with respect to a payment which is greater or less than a full payment shall bear the same relation to the specified amount as that payment bears to a full payment.

(1) A request that any sick pay be subject to withholding under this chapter shall satisfy all of the following:

(A) Shall be made by the payee in writing to the person making the payments and shall contain the social security number of the payee.

(B) Shall specify the amount to be deducted and withheld from each full payment.

(C) Shall take effect with respect to payments made more than seven days after the date on which that request is furnished to the payer, or as the department shall by regulations prescribe. That request may be changed or terminated by furnishing to the person

making the payments a written statement of change or termination which shall take effect in the same manner as provided in the preceding sentence. At the election of the payer, any such request (or statement of change or revocation) may take effect earlier than as provided in this subparagraph.

(2) Any sick pay paid pursuant to a collective bargaining agreement between employee representatives and one or more employers which contains a provision specifying that this paragraph is to apply to sick pay paid pursuant to that agreement and contains a provision for determining the amount to be deducted and withheld from each payment of that sick pay as follows:

(A) The requirement of paragraph (3) of subdivision (a) that a request for withholding be in effect shall not apply.

(B) Except as provided in Section 13026, the amounts to be deducted and withheld under this chapter shall be determined in accordance with that agreement.

The preceding sentence shall not apply with respect to sick pay paid pursuant to any agreement to any individual, unless the social security number of that individual is furnished to the payer and the payer is furnished with that information as is necessary to determine whether the payment is pursuant to the agreement and to determine the amount to be deducted and withheld.

SEC. 26. Regulations adopted to implement Sections 22, 23, 24, and 25 of this act shall be submitted by the Director of Employment Development to the Office of Administrative Law for approval pursuant to the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code no later than January 1, 1986. The Office of Administrative Law shall approve or disapprove those regulations no later than February 15, 1986. If disapproved, the Director of Employment Development shall submit revised regulations to the Office of Administrative Law no later than April 15, 1986. If the Office of Administrative Law does not approve those regulations on or before June 30, 1986, those regulations shall take effect as temporary regulations until regulations are approved by the Office of Administrative Law, or June 30, 1987, whichever occurs sooner.

SEC. 27. 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 Sections 22, 23, 24, and 25 of this act shall become operative July 1, 1986.

CHAPTER 160

An act to amend Section 23103 of the Vehicle Code, relating to traffic offenses.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 23103 of the Vehicle Code is amended to read:

23103. (a) Any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) Any person who drives any vehicle in any offstreet parking facility, as defined in subdivision (c) of Section 12500, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(c) Persons convicted of the offense of reckless driving shall be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by a fine of not less than one hundred forty-five dollars ($145) nor more than one thousand dollars ($1,000), or by both fine and imprisonment, except as provided in Section 23104.

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 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 161

An act to amend Section 11005 of the Government Code, relating to gifts to the state.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 11005 of the Government Code is amended to read:

11005. Unless the Legislature specifically provides that approval is not required, every gift to the state of personal property, or every

gift to the state of real property in fee or in any lesser estate or interest, shall be approved by the Director of Finance, and every contract for the acquisition or hiring of real property in fee or in any lesser estate or interest, entered into by or on behalf of the state, shall be approved by the Director of General Services. Any contract entered into in violation of this section is void. This section shall apply to any state agency which, by general or specific statute, is expressly or impliedly authorized to enter into transactions referred to in this section. This section does not apply (1) to unconditional gifts of money, (2) to the acquisition or hiring by the Department of Transportation of real property in fee or in any lesser estate or interest for highway purposes, but does apply to the hiring by that department of office space in any office building, (3) to contracts entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, or (4) to the receipt of donated, unencumbered personal property from private sources received in conjunction with the administration of the Federal Surplus Personal Property Program by the Department of General Services.

CHAPTER 162

An act to amend Sections 12730 and 12734 of, and to repeal Sections 12703 and 12773 of, the Business and Professions Code, relating to weights and measures, declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 12703 of the Business and Professions Code, as amended by Chapter 1686 of the Statutes of 1984, is repealed.

SEC. 2. Section 12730 of the Business and Professions Code is amended to read:

12730. (a) Except as provided in subdivision (a) or (b) of Section 12701 or this section, farm products sold by bulk weight or delivered to a processing or conditioning establishment for processing, conditioning, or sale, shall be weighed by a weighmaster, and a weighmaster certificate of the weight shall be issued to the producer with a duplicate copy issued to the buyer, conditioner, or processor.

(b) When the processing or conditioning charges or purchase is based on the bulk weight of the finished product, the finished product shall also be weighed by a weighmaster, and a second weighmaster certificate shall be issued to the producer with a duplicate copy issued to the buyer, conditioner, or processor.

(c) A producer whose product is delivered, but is not sold, to a

processor or conditioner for processing or conditioning, may waive, in writing, his or her right to have the product weighed when the processing or conditioning establishment is operated by a producer of farm products and the processing or conditioning is incidental to the production of farm products. As used in this subdivision, "incidental" means that the income derived from the processing or conditioning operation represents not more than 25 percent of the total income of the producer operating the processing or conditioning establishment.

(d) This section does not apply to any nonprofit cooperative association which is organized and operating pursuant to Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, except as to that portion of activities which involves the handling or dealing in any farm product of any nonmember of the association.

(e) The term "farm products" includes all agricultural, horticultural, viticultural, and vegetable products of the soil, flaxseed, and cottonseed, but does not include timber, timber products, milk, and milk products.

SEC. 3. Section 12734 of the Business and Professions Code is amended to read:

12734. Notwithstanding any other provision of this division, the weight of squid, Pacific whiting, or anchovy, certified pursuant to this chapter, may be determined by computation based upon volumetric measurement of containers as prescribed by regulations adopted by the director. This section does not apply to squid, Pacific whiting, or anchovy delivered for the purpose of retorting or reducing.

SEC. 4. Section 12773 of the Business and Professions Code, as amended by Chapter 1686 of the Statutes of 1984, 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 continue the present system of weights and measures in agricultural commerce which provides a fair and equitable approach to related sales without unnecessary disruption, it is necessary that this act take effect immediately.

CHAPTER 163

An act to amend Section 27802 of the Vehicle Code, relating to helmets.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 27802 of the Vehicle Code is amended to read:

27802. (a) The department may adopt reasonable regulations establishing specifications and standards for safety helmets offered for sale, or sold, for use by drivers and passengers of motorcycles and motorized bicycles as it determines are necessary for the safety of those drivers and passengers. The regulations shall include, but are not limited to, the requirements imposed by Federal Motor Vehicle Safety Standard No. 218 (49 C.F.R. Sec. 571.218) and may include compliance with that federal standard by incorporation of its requirements by reference. Each helmet sold or offered for sale for use by drivers and passengers of motorcycles and motorized bicycles shall be conspicuously labeled in accordance with the federal standard which shall constitute the manufacturer's certification that the helmet conforms to the applicable federal motor vehicle safety standards.

(b) No person shall sell, or offer for sale, for use by a driver or passenger of a motorcycle or motorized bicycle any safety helmet which is not of a type meeting requirements established by the department.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 164

An act to repeal and add Article 1 (commencing with Section 8000) of Chapter 1 of Part 6 of the Education Code, relating to schools.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Article 1 (commencing with Section 8000) of Chapter 1 of Part 6 of the Education Code is repealed.

SEC. 2. Article 1 (commencing with Section 8000) is added to Chapter 1 of Part 6 of the Education Code, to read:

Article 1. California State Council on Vocational Education

8000. The California State Council on Vocational Education, hereinafter referred to in this article as the council, is hereby created, consisting of 13 members appointed by the Governor, who shall be individuals broadly representative of citizens and organizations within the state having an interest in vocational education.

8001. The members appointed by the Governor shall include all of the following:

(a) Seven individuals (who shall constitute a majority of the voting members of the council) who shall be representatives from business, industry, and agriculture, including one member representing small business concerns, one member who shall be a private sector representative to the State Job Training Coordinating Council, and two members representing labor organizations.

In selecting private sector individuals under this subdivision, the Governor shall give due consideration to the appointment of individuals who serve on a private industry council or other appropriate state agencies.

(b) Six individuals who shall be representatives of secondary and postsecondary vocational institutions appointed on an equitable basis among these institutions, including one member representing career guidance and counseling organizations within the state, one member representing the special education profession, and four members possessing special knowledge and qualifications as to the special educational and career development needs of special populations such as women, the disadvantaged, the handicapped, individuals with limited English proficiency, and minorities.

(c) Members of the council may not represent more than one of the above-specified categories, and there shall be an appropriate representation of both sexes and racial and ethnic minorities.

8002. Members of the council shall serve without compensation. Members of the council appointed by the Governor shall receive their actual necessary expenses incurred in the performance of their duties.

8003. The council shall have the following duties and responsibilities:

(a) Meet with the State Board of Education and the Board of Governors of the California Community Colleges, or their representatives, to advise them on state plans for vocational education; and (b) advise the State Board of Education and, the Board of Governors of the California Community Colleges, and report to the Governor, Legislature, the business community, and the general public regarding all of the following:

(1) Policies the state should pursue to strengthen vocational education with special emphasis on programs for the handicapped.

(2) Programs and methods through which the private sector could undertake to assist in the modernization of vocational

education programs.

(c) Analyze and report to the Governor and the Legislature on the distribution of spending for vocational education in the state and on the availability of vocational education activities and services within the state.

(d) Consult with the State Board of Education and the Board of Governors of the California Community Colleges on evaluation criteria for vocational education programs in the state.

(e) Recommend to the State Board of Education and the Board of Governors of the California Community Colleges on the delivery of vocational education programs in the state which emphasize the involvement of business and labor organizations.

(f) Assess and report to the Governor and Legislature on the distribution of federal vocational education funding provided under Public Law 98-524, with an emphasis on the distribution of financial assistance among secondary and postsecondary vocational education programs.

(g) Recommend procedures to the State Board of Education and the Board of Governors of the California Community Colleges to ensure and enhance public participation in the provision of vocational education at the local level, with an emphasis on programs which involve the participation of local employers and labor organizations.

(h) Report to the State Board of Education, the Board of Governors of the California Community Colleges, and the Legislature on the extent to which equal access to quality vocational education programs is provided to handicapped and disadvantaged individuals, adults who are in need of training and retraining, individuals who are single parents or homemakers, individuals participating in programs designed to eliminate sexual bias and stereotyping in vocational education, and criminal offenders serving in correctional institutions.

(i) Evaluate at least once every two years all of the following:

(1) The adequacy and effectiveness of the vocational educational systems assisted under the federal Vocational Education Act and the Job Training Partnership Act in achieving the objectives defined in those acts.

(2) Make recommendations to the State Board of Education and the Board of Governors of the California Community Colleges on the adequacy and effectiveness of coordination among programs assisted under the federal Vocational Education Act and the Job Training Partnership Act.

(3) Advise the Governor, the Legislature, the State Board of Education, the Board of Governors of the California Community Colleges, the State Job Training Coordinating Council, the Secretary of the United States Department of Education, and the Secretary of the United States Labor Department on these findings and recommendations.

8004. The State Board of Education and the Board of Governors

of the California Community Colleges shall either accept or reject each recommendation made by the council and shall immediately return to the council, the Governor, and the Legislature any recommendation which has been rejected, together with the reasons for the rejection.

8005. The council is authorized to obtain the services of any professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions under this article, and to contract for any services which may be necessary for it to carry out its evaluation functions.

8006. There is, in the Department of Education and the Chancellor's Office of the California Community Colleges, a vocational education staff responsible for the design, implementation, and maintenance of a basic integrated statewide information system for vocational education and technical training. The data gathering and analysis capabilities of the system shall include, but not be limited to, maintaining comprehensive inventory of all programs of all vocational education and technical training programs which are maintained by the public schools.

8007. The Department of Education and the Board of Governors of the Community Colleges shall submit the following reports each year to the Legislature:

(a) An annual descriptive report as defined in Section 33403 containing information on vocational education and technical training programs, including regional occupational centers and programs. The report shall be coordinated with federal evaluation requirements pursuant to Public Law 98-524 and shall contain all of the following:

(1) Enrollment defined in terms of secondary students, postsecondary students, and adults.

(2) The number of graduates of programs and dropout rates.

(3) The number of students trained for specific entry level occupations.

(4) Fiscal information, including income by source and expenditure by category.

(5) Other factors as determined in Budget Act language pursuant to Section 33404.

(b) An annual individual program evaluation derived from a representative sample of participating districts and schools containing information on program effectiveness as measured by:

(1) The extent to which program completers:

(A) Find employment in occupations related to their training.

(B) Are considered by their employers to be well trained and prepared for employment.

(2) Other factors as determined in Budget Act language pursuant to Section 33404.

(c) A copy of the annual state plan for vocational education.

8008. The system provided for in Section 8007 shall be designed, implemented, and maintained in accordance with Chapter 7

(commencing with Section 10600) of Part 7.

CHAPTER 165

An act to add Section 1170.71 to the Penal Code, relating to child abuse.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 1170.71 is added to the Penal Code, to read:

1170.71. The fact that a person who commits a violation of Section 288 has used obscene or harmful matter to induce, persuade, or encourage the minor to engage in a lewd or lascivious act shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

CHAPTER 166

An act to amend Section 23826.8 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 23826.8 of the Business and Professions Code is amended to read:

23826.8. Notwithstanding any other provision of law, the director may authorize the conversion of any on-sale general license for seasonal business to an on-sale general license if the on-sale general license for seasonal business was originally issued before May 1, 1982, or if an application for original issuance of that license was filed before May 1, 1982, or, in the case of any county of the 34th class, if the on-sale general license for seasonal business was originally issued before October 1, 1982, or if an application for original issuance of that license was filed before October 1, 1982. An application for conversion shall be accompanied by the fee required by Section 23954.5 for an on-sale general license. The department shall not accept any applications for original issuance of an on-sale general license for seasonal business on or after January 1, 1983.

An on-sale general license for seasonal business which is converted to an on-sale general license under this section may not be transferred for a period of two years from the date of issuance, except

as provided in Section 24071, and except when the department determines that the transfer is necessary to prevent undue hardship. The purchase price or consideration that may be paid by a transferee or received by a transferor of an on-sale general license created by conversion under this section shall not exceed six thousand dollars ($6,000), except that after a period of five years from the date of issuance of the license there shall be no restriction as to the purchase price or consideration that may be paid by a transferee or received by a transferor.

CHAPTER 167

An act to amend Sections 13401, 13440, 13441, 13470.5, 13471, 13480, and 13570 of, and to repeal and add Sections 13450, 13451, and 13595 of, the Business and Professions Code, relating to petroleum products.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 13401 of the Business and Professions Code is amended to read:

13401. (a) "Sell" or any of its variants means attempt to sell, offer for sale or assist in the sale of, permit to be sold or offered for sale or delivery, offer for delivery, trade, barter, or expose for sale.

(b) "Manufacturer" means manufacturer, refiner, producer, or importer.

(c) "Petroleum products" means gasoline, diesel fuel, liquefied petroleum gas only when used as a motor fuel, kerosene, thinner, solvent, liquefied natural gas, pressure appliance fuel, or white gasoline, or any motor fuel, or any oil represented as engine lubricant, engine oil, lubricating or motor oil, or any oil used to lubricate transmissions, gears, or axles.

(d) "Barrel," when applied to petroleum products, consists of 42 gallons.

(e) "Oil" means motor oil, engine lubricant, engine oil, lubricating oil, or oils used to lubricate transmissions, gears, or axles.

(f) "Motor oil" means engine oil, engine lubricant, or lubricating oil.

(g) "Gasoline" means any petroleum product offered for sale which meets the standards prescribed for gasoline by this chapter.

(h) "Motor fuel" means any petroleum product intended for consumption in an internal combustion engine to produce energy.

(i) "Motor vehicle fuel" means any petroleum product intended for consumption in an internal combustion engine to produce the energy to power a self-propelled vehicle designed for transporting

persons or property on a public street or highway.

(j) "Diesel fuel" means any petroleum product offered for sale which meets the standards prescribed for diesel fuel by this chapter.

(k) "Kerosene" means any petroleum product offered for sale which meets the standards prescribed for kerosene by this chapter.

(*l*) "Fuel oil" means any petroleum product offered for sale which meets the standards prescribed for fuel oil by this chapter.

(m) "Automotive spark-ignition engine fuel" means gasoline or gasoline-oxygenate blends.

SEC. 2. Section 13440 of the Business and Professions Code is amended to read:

13440. (a) The department shall adopt specifications for gasoline or automotive spark-ignition engine fuels. In adopting specifications, the department shall adopt by reference the latest standards of the American Society for Testing and Materials standard specification for gasoline or automotive spark-ignition engine fuel, except that no specification shall be less stringent than required by any California state law.

(b) Any gasoline blend containing methanol shall also contain an alcohol cosolvent (butanol (C_4) or higher molecular weight alcohol) in an amount equal to or greater than the volume percentage of methanol except those blends previously granted a waiver by the Environmental Protection Agency.

SEC. 2.5. Section 13441 of the Business and Professions Code is amended to read:

13441. It is unlawful for any person to sell any product as, or purporting to be, gasoline or automotive spark-ignition engine fuel, unless the product conforms to the specifications of this article.

SEC. 3. Section 13450 of the Business and Professions Code is repealed.

SEC. 4. Section 13450 is added to the Business and Professions Code, to read:

13450. Diesel fuel, kerosene, and fuel oil, as defined in this chapter, mean any liquid petroleum product which conforms to the specifications of this article. The department may adopt and enforce rules and regulations necessary to carry out this article. The department shall adopt by reference the latest standards as set forth by the American Society for Testing and Materials (ASTM).

(a) Diesel fuel shall meet the specifications set forth in ASTM D-975, except that sulfur specifications shall not exceed the maximum specified by any California state law.

(b) Kerosene shall meet the specifications set forth in ASTM D-3699.

(c) Fuel oil shall meet the specifications set forth in ASTM D-396, except that sulfur specifications shall not exceed the maximum specified by any California law.

SEC. 5. Section 13451 of the Business and Professions Code is repealed.

SEC. 6. Section 13451 is added to the Business and Professions

Code, to read:

13451. It is unlawful for any person to sell or deliver to any premises for the purpose of sale, any product as or purported to be "diesel fuel," "kerosene," or "fuel oil," unless the product conforms to the specifications of this article.

SEC. 7. Section 13470.5 of the Business and Professions Code is amended to read:

13470.5. Any person selling, offering for sale, or advertising for sale, at retail to the general public, any gasoline or other motor fuel from any place of business in this state by use of or through or from any dispensing apparatus and displaying any sign showing the actual total price per liter, shall, in addition, display in a conspicuous fashion in full view of the retail purchaser and in accordance with provisions of this chapter, a gallon-to-liter conversion table showing quantity and price equivalents.

SEC. 8. Section 13471 of the Business and Professions Code is amended to read:

13471. Each sign required by this article shall be placed in a conspicuous place on the dispensing apparatus and if service of gasoline or other motor fuel may be made from more than one side of such dispensing apparatus the sign shall be so placed as to be visible from at least two sides of the dispensing apparatus.

SEC. 9. Section 13480 of the Business and Professions Code is amended to read:

13480. (a) It is unlawful for any person to sell any petroleum product referred to in this chapter at any place where petroleum products are kept or stored for sale, unless there is affixed to each container, receptacle, pump, dispenser, and inlet end of the fill pipe of each underground storage tank, from which or into which such product, is drawn or poured out for sale or delivery, a sign or label plainly visible consisting of the name of the product, the brand, trademark, or trade name of the product, and in the case of gasoline, diesel fuel, other motor fuel, and kerosene, the grade or brand name designation.

(b) When the product is oil, as defined by Section 13401, each sign or label shall also have in letters or numerals, plainly visible, the viscosity grade classification as determined in accordance with the Society of Automotive Engineers latest recommended practice for crankcase oil or transmission and axle lubricants and shall be preceded by the letters "S.A.E.". Oil which meets specifications for more than one viscosity grade shall be labeled to show the grade or grades for which the supplier intends it for use.

(c) When the product is gasoline or alcohol, or a mixture of gasoline and alcohol, there shall be conspicuously displayed on the dispensing device at least one sign or label showing the minimum octane number or antiknock index, as defined in Section 13403, of all products sold therefrom.

(d) When the product is a motor fuel which contains at least 1 percent by volume ethanol (ethyl alcohol) or methanol (methyl

alcohol), or a combination thereof, there shall be conspicuously displayed on the dispensing device at least one sign or label correctly stating the applicable one of the following statements:

(1) "Contains alcohol (ethanol)."

(2) "Contains alcohol (methanol)."

(3) "Contains alcohol (ethanol and methanol)."

(e) When the product is a motor fuel consisting of a mixture or premixture of gasoline and oil, there shall be conspicuously displayed on the dispensing device at least one sign or label stating the ratio of gasoline to motor oil.

(f) All signs or labels required by this section for retail motor fuel dispensers and containers of more than one gallon capacity shall be in letters and numerals not less than one-half inch (12.70 mm) in height. On containers of one gallon or less, the signs or labels shall be in letters and numerals not less than one-fourth inch (6.35 mm) in height and one-sixteenth inch (1.59 mm) in width.

(g) The provisions of this section pertaining to octane numbers or antiknock index and motor oil S.A.E. viscosity number grade shall not apply to products sold for aviation purposes.

(h) The provisions of this section shall apply, with respect to thinners or solvents, only to the sale, delivery, or offer for sale of the products through service stations, garages, and other retail outlets.

SEC. 10. Section 13570 of the Business and Professions Code is amended to read:

13570. Any manufacturer, blender, agent, jobber, consignment agent, or distributor who distributes motor fuel products which contain at least 1 percent alcohol by volume, shall state on an invoice, bill of lading, shipping paper, or other documentation used in normal and customary business practices, the percentage of alcohol, the type of alcohol, and, except in documentation certifying the octane rating of gasoline as required by federal law, the minimum antiknock index number, as defined in Section 13403, of the products distributed. This section, as it relates to certification of the minimum antiknock index number, applies to all motor vehicle gasoline distributed.

SEC. 11. Section 13595 of the Business and Professions Code is repealed.

SEC. 12. Section 13595 is added to the Business and Professions Code, to read:

13595. (a) It is unlawful for any person to sell or deliver any petroleum product referred to in this chapter which fails to meet the specifications required by this chapter.

(b) It is unlawful for any person to sell or deliver any petroleum product referred to in this chapter into, from, or through an unlabeled or mislabeled container or device.

(c) The department, each county sealer, deputy county sealer, and inspector may close and seal outlets and inlets of any receptacles, containers, pumps, dispensers, or storage tanks connected to the outlets and inlets, containing any petroleum product referred to in this chapter which fails to meet the requirements of this chapter.

The person so sealing shall post in a conspicuous place on the premises, where a receptacle, container, pump, dispenser, or storage tank connected to the outlets and inlets has been sealed, a notice stating that the action of sealing has been taken in accordance with this chapter, and giving warning that it is unlawful to break, mutilate, or destroy the seal or seals of the outlets and inlets, to move the container, or to remove the contents from the container, under the penalty provided in this division.

(d) If a container or lot of containers of any commodity subject to this chapter is found to contain a commodity not in conformity with this chapter, the director or sealer representing the director may take a sample or samples reasonably necessary for enforcement purposes and may in writing order the containers off sale. Any lot or container ordered off sale pursuant to this section shall be subject to a disposal order by the enforcing officer and shall not be sold, offered for sale, or transported, except in accordance with that disposal order. Any action pursuant to this section shall not affect any rights of a retailer under a warranty of merchantability or warranty of fitness.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 168

An act to amend Section 9353.3 of, and to add Section 9350.10 to, the Government Code, relating to the Legislators' Retirement System.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 9350.10 is added to the Government Code, to read:

9350.10. "Net earnings" means the earnings of the retirement fund less the administrative costs specified in Section 9354 and transfers to the reserve against deficiencies.

SEC. 2. Section 9353.3 of the Government Code is amended to read:

9353.3. From time to time the board shall determine the rate of interest being earned on the Legislators' Retirement Fund, and shall credit all contributions of members and retired members with interest at the net earnings rate, compounded at each June 30th.

CHAPTER 169

An act to amend Section 1035 of the Military and Veterans Code, relating to veterans.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 1035 of the Military and Veterans Code is amended to read:

1035. (a) All moneys and other personal property of any veteran held by the home, or by its authority, or left by the veteran upon the premises of the home, shall, upon the death of the veteran, be held by the home in trust to be paid or delivered by the home upon proof deemed to be proper to the manager, directly and without probate, to the heirs of the veteran, except that the manager may disburse funds of any deceased veteran for payment of funeral expenses or any obligation owed to the home, including the cost of any care rendered by the home in excess of the fees paid by the veteran to the home. Any funds of the deceased veteran representing the cost of care rendered by the home in excess of the fees paid by the veteran to the home shall be paid to the post fund.

This subdivision shall apply only to veterans becoming members of the home on or after January 1, 1984.

(b) All moneys and other personal property of any veteran held by the home, or by its authority, or left by the veteran upon the premises of the home, shall, upon the death of the veteran, be held by the home in trust to be paid or delivered by the home upon proof deemed to be proper to the manager, directly and without probate, to the spouse, children, grandchildren, or father or mother of the veteran, except that the manager may disburse funds of any deceased veteran for payment of funeral expenses or any obligation owed to the home.

This subdivision shall apply only to veterans who have become members of the home prior to January 1, 1984.

CHAPTER 170

An act to amend Section 14907 of the Government Code, relating to law libraries.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 14907 of the Government Code is amended to read:

14907. Upon application, county law libraries, the law libraries of any law school approved by the State Bar of California, the Supreme Court Library, the law libraries of the courts of appeal, and the law libraries of the Department of Justice and the law library of the Continuing Education of the Bar of the University of California Extension may contract as provided in Section 14905 to become a selective or complete depository library.

CHAPTER 171

An act to amend Sections 15621 and 15692 of the Corporations Code, relating to partnerships.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 15621 of the Corporations Code is amended to read:

15621. (a) In order to form a limited partnership the partners shall execute a partnership agreement and the general partners shall execute, acknowledge and file a certificate of limited partnership. The certificate shall be filed in the office of, and on a form prescribed by, the Secretary of State and shall set forth all of the following:

(1) The name of the limited partnership.

(2) (A) The street address of the principal executive office.

(B) If the principal executive office is not in this state, the street address of an office in this state.

(3) The names and addresses of the general partners.

(4) The name and address of the agent for service of process required to be maintained by Section 15614, unless a corporate agent is designated, in which case only the name of such agent shall be set forth.

(5) The term for which the partnership is to exist.

(6) Any other matters the general partners determine to include.

(b) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the Secretary of State.

(c) For all purposes, a copy of the certificate of limited partnership duly certified by the Secretary of State is conclusive evidence of the formation of a limited partnership and prima facie evidence of its existence.

(d) A limited partnership may record in the office of the county

recorder of any county in this state a certified copy of the certificate of limited partnership, or any amendment thereto, which has been filed in the office of the Secretary of State. A foreign limited partnership may record in the office of the county recorder of any county in the state a certified copy of the application for registration, together with the certificate of registration, referred to in Section 15692, or any amendment thereto, which has been filed in the office of the Secretary of State. The recording shall create a conclusive presumption in favor of any bona fide purchaser or encumbrancer for value of the partnership real property located in the county in which the certified copy has been recorded, that the persons named as general partners therein are the general partners of the partnership named and that they are all of the general partners of the partnership, and the recording shall also create such other presumptions as provided in Section 15010.5.

(e) The Secretary of State may cancel the filing of certificates of limited partnership if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the original filing.

SEC. 2. Section 15692 of the Corporations Code is amended to read:

15692. Before transacting intrastate business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State an application for registration as a foreign limited partnership, signed and acknowledged by a general partner on a form prescribed by the Secretary of State and setting forth all of the following:

(a) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state.

(b) The state or country and date of its formation and a statement that the foreign limited partnership is authorized to exercise its powers and privileges in such state or country of formation.

(c) The name and address of an agent for service of process on the foreign limited partnership meeting the qualifications specified in paragraph (1) of subdivision (d) of Section 15627.

(d) A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if the agent has resigned and has not been replaced or if the agent cannot be found or served with the exercise of reasonable diligence.

(e) The address of the principal executive office of the foreign limited partnership and of its principal office in this state, if any.

(f) The names and business or residence addresses of the general partners.

(g) The Secretary of State may cancel the application and certificate of registration of a foreign limited partnership if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the original filing.

CHAPTER 172

An act to amend Section 21080.10 of the Public Resources Code, relating to environmental impact reports.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 21080.10 of the Public Resources Code is amended to read:

21080.10. This division does not apply to any of the following:

(a) An extension of time, granted pursuant to Section 65361 of the Government Code, for the preparation and adoption of one or more elements of a city or county general plan.

(b) Actions taken by the Department of Housing and Community Development or the California Housing Finance Agency to provide financial assistance or insurance for the development and construction of residential housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, if the project which is the subject of the application for financial assistance or insurance will be reviewed pursuant to this division by another public agency.

CHAPTER 173

An act to amend Section 19140 of the Government Code, relating to state employees.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985.]

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

SECTION 1. Section 19140 of the Government Code is amended to read:

19140. In addition to reinstatement required under any other section, an appointing power may, in his or her discretion, reinstate any person having probationary or permanent status who was separated from his or her position (a) by resignation, (b) by service retirement, (c) by termination from limited-term, temporary, career executive assignment, or exempt appointment, (d) under Section 19996.2, or (e) without a break in continuity of state service to accept another civil service or exempt appointment. Reinstatement shall be undertaken subject to all of the following:

(a) Subject to board rule.

(b) Within three years if the employee, at the time of separation was a member of the California Highway Patrol.

For reinstatement after separation, for members of the California Highway Patrol, the time spent (1) in a position which is exempt from civil service or (2) as a temporary employee in another governmental agency engaged in a technical cooperation program under an agreement approved by the state or (3) in a recognized military service, shall not be considered in computing the three-year period. A member of the California Highway Patrol separated from state service may be reinstated to an otherwise appropriate nonmember class even if the separation exceeds three years.

(c) To any vacant position as follows:

(1) In the class vacated or from which separated.

(2) In a lower class in the same series.

(3) In a lower class in a related series requiring similar types of qualifications, knowledge, and abilities.

(4) In another class having substantially similar duties, responsibilities, and qualifications, and substantially the same salary range.

An employee, including a member of the California Highway Patrol, separated from his or her former position in state service by layoff, or by resignation or demotion in lieu of layoff, may be reinstated at the discretion of the appointing power; provided, however, that the reinstatement shall be subject to the requirements of this section and shall not be to a position that is specifically subject to the employee's reemployment list eligibility.

CHAPTER 174

An act to add Section 22018 to the Government Code, relating to Medicare.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 22018 is added to the Government Code, to read:

22018. (a) It is the intent of the Legislature that, to the extent possible, members of the State Teachers' Retirement System earn credit towards Medicare coverage.

(b) In accomplishing the goal specified in subdivision (a), the board shall make available to school districts, community college districts, and county superintendents of schools information concerning the procedure for earning credit for social security coverage for school related service not credited under the State Teachers' Retirement Law.

CHAPTER 175

An act to add Article 1.8 (commencing with Section 31499.10) to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, relating to public employee retirement.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Article 1.8 (commencing with Section 31499.10) is added to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, to read:

Article 1.8. Alternative Optional, Integrated, Noncontributory Plan for Counties of the 20th Class

31499.10. (a) The retirement plan created by this article shall be known as Retirement Plan 3.

(b) This article shall be applicable in the retirement system of any county of the 20th class as described by Section 28041, if the board of supervisors adopts, by majority vote, a resolution providing that the article shall be applicable.

(c) The purpose of this article is to provide an optional, noncontributory retirement plan for general members as an

alternative to the provisions and benefits otherwise contained in this chapter.

(d) The retirement benefits of (1) all general members employed after the date this article is made operative and who elect the plan created by this article and (2) existing general members who transfer to the plan created by this article, shall be governed by this article.

(e) In the event of a conflict, this article shall supersede and prevail over other provisions or application of provisions otherwise contained in this chapter.

(f) Except as otherwise provided below, the provisions contained in this chapter shall apply:

(1) Article 9 (commencing with Section 31700) of this chapter shall not be applicable.

(2) Article 10 (commencing with Section 31720) of this chapter shall not be applicable.

(3) Article 11 (commencing with Section 31760) of this chapter shall not be applicable.

(4) Article 12 (commencing with Section 31780) of this chapter shall not be applicable.

(5) Article 16.5 (commencing with Section 31780) of this chapter shall not be applicable.

(g) Article 15 (commencing with Section 31830) shall only be applicable for service retirement. Those provisions of Article 15 dealing with disability retirement, death benefits, and the requirement relating to the deposit of accumulated member contributions shall not be applicable.

(h) Except as otherwise provided, any member who upon retirement receives a retirement pension calculated in accordance with sections or provisions added to this article subsequent to the effective date of this article shall have his or her pension calculated under each such section or provision only for the period of time that those sections or provisions were in effect, unless otherwise mutually agreed between the employer and its employee representatives.

(i) Unless specifically otherwise provided, no amendment to this article subsequent to the effective date of this article shall apply to any county or to the employees of any county unless mutually agreed to by the employer and emloyee representatives and adopted by majority resolution of the board of supervisors.

31499.11. Unless the context otherwise requires, the definitions contained in this section govern the construction of this article.

(a) "Board" means the board of retirement.

(b) "Employer" means the county or district or agency whose employees are members of the retirement system of the county.

(c) "Federal system" means the Old Age and Survivors Insurance provisions of the Social Security Act.

(d) "Final compensation" means the average annual compensation earnable by a general member during any three years, whether or not consecutive, elected by the member at or before the

time an application for retirement is filed, or, if no election is made, during the three years in which the member or former member last earned compensation preceding retirement. If a member or former member has less than three years of service, final compensation shall be determined by dividing total compensation by the number of months of service credited to the member or former member and multiplying by 12. In no event shall final compensation include any disability benefits received by the member or former member under a disability plan provided by the employer.

(e) "Member" or "general member" means an employee hired on a permanent basis, as defined by the employer, except an employee eligible for safety member.

(f) "Primary insurance amount" means the monthly retirement benefit payable under the federal system at the age of 65.

(g) "Service" means the period of uninterrupted employment of a member and the time in which a member or former member (1) is totally disabled, and (2) is receiving disability benefits or is eligible to receive disability benefits either during or after any elimination or qualifying period, under a disability plan provided by the employer.

Except as otherwise provided in this article, a member shall not be credited with service for any period of time in which the member is absent from work without pay.

Unless otherwise provided, service shall not include military service or public service other than service with the employer.

31499.12. (a) There shall be no general members' contributions under the plan created by this article.

(b) A member who transfers to the retirement plan created by this article shall have refunded, within a reasonable period of time, not to exceed nine months from the date of receipt of election to transfer by the board, the member's accumulated contributions, together with interest thereon, which are credited to the member's account. Interest shall be credited to the June 30 or December 31 date, whichever is later, immediately preceding the date of the refund warrant. Any refund under this section shall be payable to the member.

31499.13. (a) Except as provided in Section 31499.17 and under reciprocal provisions of this article, a member who was in public service prior to becoming a member may not elect to receive credit in this retirement plan for the public service time, and shall not receive credit for that prior public service.

(b) Absence from work or termination of employment while an eligible employee or disability beneficiary, as defined by a disability plan provided by the employer, shall not be considered as breaking the continuity of service.

(c) For the purposes of subdivision (b) of Section 31499.14, an unpaid leave of absence of not to exceed one year, or a leave of absence for which an employee received any benefit which has been approved by the employer, shall not be considered an interruption

of service. However, the period of time of unpaid leave shall not be considered as service in calculating the benefits otherwise provided under this article.

31499.14. (a) Retirement of a member or former member who has met the requirements for age and service shall be made by the board, at which time the member or former member becomes a retired member.

(b) Any member who has completed 10 years of service shall be vested under the plan created by this article.

(c) Any member who is not vested, whose employment terminated, and who is then reemployed shall not receive credit for his or her previous service credited under Plan 3, provided, that the service was rendered in Plan 3.

(d) Any vested member or vested former member who has attained the age of 65 years may be retired upon filing with the board a written application on a form provided by the board for normal retirement setting forth the desired effective retirement date.

(e) Any vested member or vested former member who has attained the age of 55 years may be retired upon filing with the board a written application on a form provided by the board for early retirement setting forth the desired effective retirement date.

(f) The normal retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member equal to 2 percent of his or her final compensation multiplied by the number of years of service to the preceding completed month to which the member is entitled to be credited at retirement, not to exceed 35 years, added to 1 percent of the member's final compensation multiplied by the number of years of service in excess of 35, not to exceed 20 years, reduced by the estimated primary insurance amount, if any, multiplied by the fraction of the number of years of service with the employer subject to coverage under the federal system, not to exceed 35 years, divided by 35.

In no event shall the normal retirement pension, when added to the estimated primary insurance amount, exceed 70 percent of the member's final compensation unless the years of service to which the member is entitled to be credited at retirement exceeds 35, in which case the normal retirement pension, when added to the estimated primary insurance amount, shall not exceed 80 percent of the member's final compensation.

(g) The early retirement pension shall consist of an annual allowance payable in monthly installments for the life of the retired member in an amount which is the actuarial equivalent of the normal retirement pension to which the retired member would be entitled if otherwise eligible for normal retirement, which shall be computed by multiplying the normal retirement pension by the early retirement adjustment factor set forth opposite the member's age as of the birthday immediately preceding the date of retirement in the following table:

Age	ERA factor
55	.39
56	.43
57	.47
58	.51
59	.56
60	.61
61	.67
62	.74
63	.82
64	.90

The early retirement adjustment factor set forth in this subdivision shall be used until adjusted by the board in accordance with the interest and mortality tables adopted by the board.

(h) The board, upon the advice of the actuary, shall establish and adjust, as required, the table of estimated primary insurance amounts, which shall be utilized in computing the retirement benefit. For purposes of this article, the primary insurance amount shall be estimated based on the employee's age and salary as of the date of retirement or the date of termination of a vested member, whichever is applicable, provided that:

(1) An employee's prior career earnings shall be assumed to have been subject to the federal system and to have increased on a year-to-year basis at a rate equivalent to the rate of increase in the average per worker total wages reported by the Social Security Administration, and

(2) For those members who have not attained the normal retirement age under the federal system as of the date of retirement (A) future earnings in employment covered by the federal system shall be assumed to continue at the rate of pay received by the employee from the employer as of the date of retirement or the date of termination of a vested member, whichever is applicable, and (B) future wage bases, as defined by the federal system, shall be assumed to continue at the wage base in effect in the year of retirement or the year of termination of a vested member, whichever is applicable, and (C) cost-of-living increases in the year of retirement and delayed retirement credit provided under the federal system shall not be included in the calculation of the estimated primary insurance amount.

(i) The employer shall certify the years of service to be credited at retirement and the final compensation to be utilized in computing the normal and early retirement pension.

(j) At the time of application for retirement, the member or former member shall provide adequate proof (1) of age and (2) of the eligibility of persons, if any, who at that time would otherwise qualify for the survivor allowance provided for in Section 31499.15.

(k) Notwithstanding subdivision (f), any retired member receiving a normal retirement pension shall, as soon as possible but not later than six months following retirement, present evidence required by the board of the retired member's actual primary insurance amount. For purposes of this subdivision, the actual primary insurance amount shall be the amount payable under the federal system on the retired member's date of retirement without regard to delayed retirement credit or any deductions on account of work. Following receipt of that evidence, the board shall adjust the retired member's pension from the date of retirement to equal the amount of the pension to which he or she would have been entitled on that date had the estimated primary insurance amount equaled the actual primary insurance amount.

31499.15. (a) Upon the death of a retired member, 50 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (b), shall be continued during and throughout the life of his or her surviving spouse, if he or she was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including stepchild or adopted child, attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived, shall be paid to the deceased retired member's child or children under the age of 18 years. If the survivor allowance is to be paid to surviving children, the allowance shall be divided among the children in equal amounts. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or upon attaining the age of 18 years.

Notwithstanding any other provisions of this subdivision, the allowance otherwise payable to the children of the retired member shall be paid to the children through the age of 21, if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(b) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone, may elect to have the actuarial equivalent of the retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and thereafter to have a survivor allowance as approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement.

(c) No designation pursuant to subdivision (b) shall, in the opinion of the board and the actuary, place any additional actuarial cost burden upon the retirement system.

31499.16. Any person employed subsequent to the effective date of this article who would otherwise qualify as a member shall not

become a member until he or she certifies to the board his or her election to be covered by the retirement plan established by this article or to be covered by the retirement provisions and benefits otherwise available to members on the date preceding the effective date of this article. As a condition of continued employment, the certification shall be made within 60 days of employment. The employer shall make available to the person a disclosure of the elements of each of the available retirement plans prior to accepting his or her election.

31499.17. (a) General members may, within 180 days of the effective date of this article, elect to transfer to the retirement plan created by this article upon proper application executed by the member and filed with the board. The transfer is voluntary and shall be irrevocable.

(b) The retirement benefits of the transferred members are governed and defined by this article.

(c) Transferring members relinquish and waive any and all previously available vested or accrued retirement, survivor, disability and death benefits. All transferring members whose contributions for public service have been refunded to them shall not receive credit for such service.

(d) Any member who selects Retirement Plan 3 upon reentering into county service and who has not received credit as a Plan 3 member for previous county service, may elect to repurchase his or her previous service by redepositing his or her withdrawn contributions, plus interest, from date of termination, and shall then receive credit for that service under the plan status at the time of original employment.

(e) Any member who has elected or transferred to the plan created by this article and who terminates his or her employment and is later reemployed shall not be entitled to change his or her election upon that reemployment.

31499.18. Until the completion of the next regularly scheduled actuarial survey of the retirement system, the employer contribution required to finance the plan created by this article shall be established by the board, upon the recommendation of the actuary.

31499.19. If any provision of this article, or the application thereof, to any person or circumstances, is held invalid, the invalidity shall not affect other provisions or application of the article which can be given effect without the invalid provisions or application and, to this end the provisions of this article are severable.

SEC. 2. No reimbursement is required by this act pursuant to 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.

SEC. 3. 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 Section 1 of this act shall remain

in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 176

An act to amend Sections 20017.85, 20017.96, 20330, 20571, 20654, 20862, 20898.1, 21103, 21251.14, 21266, 21339, 21380, 21382.4, and 22754 of the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 20017.85 of the Government Code is amended to read:

20017.85. "State safety member" shall also include officers and employees of the following departments with the following class title of:

Schematic Code	Class Code	Classification	Department
VC 95	8358	State Security Officer	General Services
VC 80	1986	Chief Museum Security Officer	Museum of Science Industry
VC 85	1988	Supervising Museum Security Officer	Museum of Science Industry
VC 90	1992	Museum Security Officer	Museum of Science Industry
BS 57.....	0891	Park Safety & Enforcement Supervisor	Park and Recreation
BS 53.....	0890	Park Safety & Enforcement Specialist	Park and Recreation
VC 40	1935	Hospital Peace Officer III	Developmental Services, Mental Health
VC 45	1936	Hospital Peace Officer II	Developmental Services, Mental Health, Consumer Affairs

VC 48	1937	Hospital Peace Officer I	Developmental Services, Mental Health, Consumer Affairs
VZ 35	8990	Firefighter/Security Guard	Forestry, Vets Affairs
VZ 25	8989	Supervising Firefighter/Security Guard	Vets Affairs
VZ 10	8988	Chief Fire Fighter/Security Guard	Vets Affairs
VY 85	8997	Arson & Bomb Investigator	Fire Marshal
VY 65	8999	Supervising Arson & Bomb Investigator	Fire Marshal
VY 60	8966	Fire Prevention Engineer	Fire Marshal
VY 70	8969	Deputy State Fire Marshal III	Fire Marshal
VY 80	8972	Deputy State Fire Marshal II	Fire Marshal
VY 90	8975	Deputy State Fire Marshal I	Fire Marshal
VZ 70	9090	Fire Service Training Specialist III	Fire Marshal
VZ 80	9089	Fire Service Training Specialist II	Fire Marshal
VZ 90	9088	Fire Service Training Specialist I	Fire Marshal
VZ 60	9091	Fire Service Training Supervisor	Fire Marshal
VW 40	9030	Chief, Food and Drug Section	Health Services
VW 45	9027	Assistant Chief, Food & Drug Section	Health Services
VW 60	9028	Food & Drug Program Coordinator	Health Services
VW 65	9029	Food & Drug Regional Administrator	Health Services
VW 70	9036	Food & Drug	

			Health Services
		Specialist IV	
VW 80	9039	Food & Drug Specialist III	Health Services
VW 90	9042	Food & Drug Specialist II	Health Services
VX 10	9043	Food & Drug Trainee	Health Services
VX 30	9007	Food Technology Specialist	Health Services
VI 40.....	8613	Chief, Investigation Bureau, DHS	Health Services
VI 62.....	8609	Chief, Bureau of Fraudulent Claims, Dept. Ins.	Insurance
VP 80	8678	Supervising Special Investigator, ABC	ABC
VP 70	8677	District Administrator, ABC	ABC
VP 50	8673	Deputy Division Chief, ABC	ABC
VI 30.....	8610	Chief, Division of Investigations, Dept. of Consumer Affairs	Consumer Affairs

Any person employed in the above classifications in the department indicated may elect, within 90 days of the operative date of this section, to remain subject to the miscellaneous service retirement benefit by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 of the Government Code only for service also included in the federal system.

This section shall not become applicable to any member included in a classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" and/or "fireman" is issued by the federal agency for purposes of Section 218(d)(5)(A) of the Social Security Act.

SEC. 2. Section 20017.96 of the Government Code is amended to read:

20017.96. "State peace officer/firefighter member" also includes officers and employees with the following class titles of:

Class Code	Classification
9694.....	Board Coordinating Parole Agent, Youthful Offender Parole Board

9774	Correctional Case Worker Trainee
9649	Correctional Program Supervisor
9903	Correctional Counselor II
9904	Correctional Counselor I
9662	Correctional Officer
9658	Correctional Officer Trainee
9911	Case Work Specialist, Youth Authority
9579	Group Supervisor
9578	Group Supervisor Trainee
8217	Medical Technical Assistant, Correctional Facility
9701	Parole Agent I, Youth Authority
9765	Parole Agent I, Adult Parole
9696	Parole Agent II, Youth Authority
9763	Parole Agent II, Adult Parole
8215	Senior Medical Technical Assistant
9590	Transportation Officer, Youth Authority
9581	Youth Counselor
6875	Air Operations Officer I
6877	Air Operations Officer I, Maintenance
6882	Air Operations Officer II, Maintenance
1050	Air Operations Officer III, Maintenance
1053	Air Operations Officer III
1056	Air Operations Officer II
1077	Fire Apparatus Engineer
1074	Fire Captain
1072	Fire Control Aid
1069	Fire Crew Supervisor
1082	Firefighter, California Department of Forestry
1083	Seasonal Firefighter, California Department of Forestry
1046	Forestry Helicopter Pilot
1047	Fire Prevention Officer I
1049	Fire Prevention Officer II
1054	Forester I
1060	Forestry Aid
6387	Heavy Fire Equipment Operator
1055	Junior Forester
8997	Arson/Bomb Investigator
8972	Deputy State Fire Marshal II
8975	Deputy State Fire Marshal I
9043	Food and Drug Investigator I
9039	Food and Drug Investigator II
9042	Food and Drug Investigator III
9001	Firefighter/Correctional Institutions
8416	Lt. Fish and Game Patrol Boat
0992	Life Guard
1992	Museum Security Officer I

0890	Park Safety/Enforcement Specialist
8359	Sgt. California State Police
8464	State Police Officer
0983	State Park Ranger I
0981	State Park Technician
8358	State Security Officer
8989	Supervisor Firefighter/Security Guard
8410	Warden/Pilot Fish and Game
8990	Firefighter/Security Guard
8979	Firefighter
8421	Fish and Game Warden
8418	Fish and Game Patrol, Lieutenant
9028	Food and Drug Program Coordinator
9007	Food Technology Specialist
9088	Fire Service Training Specialist I
9089	Fire Service Training Specialist II
9090	Fire Service Training Specialist III
1937	Hospital Peace Officer I
9013	Deputy State Fire Marshal III Specialist
0989	Aquatic Specialist
0982	State Park Ranger Trainee

Any person so designated may elect, within 90 days of notification by the board, to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to the effective date of this section by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

SEC. 3. Section 20330 of the Government Code is amended to read:

20330. The following persons are excluded from membership in this system:

(a) Inmates of state or public agency institutions who are allowed compensation for such service as they are able to perform.

(b) Independent contractors who are not employees.

(c) Persons employed as student assistants in the state colleges and persons employed as student aids in the special schools of the State Department of Education and in the public schools of the state.

(d) Persons employed as teacher assistants and excluded under Section 22609 of the Education Code.

(e) Participants, other than staff officers and employees, in the California Conservation Corps.

(f) Persons employed as participants in a program of, and whose wages are paid in whole or in part by federal funds in accordance with, the Comprehensive Employment and Training Act of 1973, Public Law 93-203, as amended.

This subdivision does not apply with respect to persons employed in job classes which provide eligibility for patrol or safety member-

ship, or to the career staff employees of an employer.

SEC. 4. Section 20571 of the Government Code is amended to read:

20571. Notwithstanding any other provision of law, when all or part of an employer's function is transferred to an entity which is not an employer, the board may, by contract between the board, the employer, and the succeeding entity, transfer all or part of the assets and liabilities accumulated in the system by the employer to the succeeding entity.

Members employed by that employer shall have an individual election whether all accumulated contributions shall be transferred to the succeeding entity or left on deposit with the system.

The accumulated contributions may be directly transferred to the succeeding entity by the board for those members who so request.

SEC. 5. Section 20654 of the Government Code is amended to read:

20654. Subject to regulations adopted by the board, a member may file an election with the board to redeposit in the retirement fund, in a lump sum or by installment payments, (1) an amount equal to the accumulated contributions that he or she has withdrawn at one or more terminations of service, or for one withdrawal at a time, but in reverse chronological order in which they occurred, and (2) an amount equal to the interest which would have been credited to his or her account as if the annual interest rate in effect on the date of the election to redeposit had been and continued to be in effect through the completion of the payments.

SEC. 6. Section 20862 of the Government Code is amended to read:

20862. One year of service credit shall be granted for service rendered and compensated in a fiscal year in full-time employment for any of the following:

(a) One academic year of service for persons employed on an academic year basis, under terms and conditions prescribed by the board.

(b) Ten months of service for persons employed on a monthly basis.

(c) Two hundred fifteen days of such service since June 30, 1951, and 250 days prior to July 1, 1951, for persons employed on a daily basis.

(d) One thousand seven hundred twenty hours of such service for persons employed on an hourly basis.

A fractional year of credit shall be given for service rendered in a fiscal year in full-time employment for less than the time prescribed in this section.

SEC. 7. Section 20898.1 of the Government Code is amended to read:

20898.1. "Leave of absence" also means any time during which a member is granted an approved leave for the purpose of service of up to two years with a university, college, local, state, federal or

foreign governmental agency, or nonprofit organization, if he returns to employment within the terms and conditions under which the leave was granted; provided, however, that any member electing to receive credit for such leave of absence shall in addition to contributions otherwise required by this article contribute an amount equal to the contribution that would have been made on behalf of the member had the member not been absent, assuming that the employer rate of contribution in effect at the time of election had been in effect during the absence. In no event shall a member receive service credit in excess of two years for each approved leave of absence.

SEC. 8. Section 21103 of the Government Code is amended to read:

21103. A person who has been retired under this system for service may be reinstated from retirement pursuant to this article, without regard to the requirements of Section 21101, upon his or her application to the board if all of the following conditions occur:

(1) Upon such reinstatement, he will be appointed by a state board or commission to the position to which such board or commission is entitled to appoint an employee exempt from civil service under the provisions of Article VII of the Constitution; and

(2) In the judgment of the board or commission he or she has special knowledge, experience and qualifications respecting the activities of such board or commission.

SEC. 9. Section 21251.14 of the Government Code is amended to read:

21251.14. (a) A member who elects, pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6, to participate in partial service retirement, while so participating, shall receive a reduced service retirement allowance. The reduced service retirement allowance shall be the amount of the service retirement allowance to which the employee would otherwise have been entitled had he or she fully retired on the effective date of the partial service retirement, reduced by the percentage of the employee's full-time work which the employee has elected to work while on partial service retirement.

(b) The provisions of Article 4 (commencing with Section 21330) of Chapter 9, shall not apply to an employee who is participating in reduced worktime for partial service retirement.

(c) For a member who elects pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 to become fully retired, the current service pension, or current and prior service pensions, as the case may be, upon his or her full service retirement shall be (1) the sum of a current service pension calculated on the basis of service rendered during participation in reduced worktime in accordance with the formula applicable to his or her current service pension, plus his or her current service pension, or current and prior service pensions, as the case may be, as it was prior to his or her full service retirement, provided, that full service retirement

occurs before he or she renders, while participating in reduced worktime for partial service retirement, one year of state service credited under this system; or (2) if he or she has rendered one year or more of such state service while participating in reduced worktime for partial service retirement, a current service pension, or current and prior service pensions, as the case may be, based on the total years of service with which the member is entitled to be credited, calculated on the basis of the formula currently applicable to the employment in which the service was rendered. A member shall receive service credit for service during participation in reduced worktime for partial retirement and service credited at the time of the election to participate in reduced worktime for partial retirement.

SEC. 10. Section 21266 of the Government Code is amended to read:

21266. Notwithstanding any other provisions of this part, survivor continuance allowances payable to surviving spouses upon death after retirement of a member shall not cease upon remarriage if the remarriage occurs on or after January 1, 1985.

This section shall not apply to any contracting agency, unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after January 1, 1985, by express provision in the contract making the contracting agency subject to this section and, in that case, this section shall only apply to a surviving spouse of a local member employed by the contracting agency whose remarriage occurred on or after the date the contracting agency elects to be subject to this section.

The employer is not required by this section to meet and confer with an employee organization regarding the subject matter of this section, and the subject matter shall not be included within the scope of representation pursuant to Section 3504.

SEC. 11. Section 21339 of the Government Code is amended to read:

21339. Notwithstanding any other provision of this part, a member who elected to receive optional settlement 2, 3, or 4, involving life contingency of the beneficiary, may, if his or her beneficiary predeceases him or her, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of his or her lifetime under the optional settlement previously chosen applied to a lesser allowance during his or her remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary. The election shall be made within 12 months following the death of the beneficiary who predeceased the member or within 12 months following marriage if a spouse is named as beneficiary.

SEC. 12. Section 21380 of the Government Code is amended to read:

21380. "1959 survivor allowance" means the allowance provided

for in Sections 21382, 21382.2, and 21382.4.

SEC. 13. Section 21382.4 of the Government Code is amended to read:

21382.4. (a) In lieu of benefits provided in Section 21382 or Section 21382.2, if the death benefit provided by Section 21361 is payable on account of a state member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21361 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A widow or a widower who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid seven hundred dollars ($700) per month if there is one such child, or eight hundred forty dollars ($840) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of three hundred fifty dollars ($350) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are such children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid three hundred fifty dollars ($350) per month.

(B) If there are two children, the children shall be paid seven hundred dollars ($700) per month divided equally between them.

(C) If there are three or more children, the children shall be paid

eight hundred forty dollars ($840) per month divided equally among them.

(3) A widow or a widower who has attained or attains the age of 62 years, and, with respect to both widow and widower, who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death, shall be paid three hundred fifty dollars ($350) per month. No allowance shall be paid under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be one hundred forty dollars ($140) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies or remarries and there is no such surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid three hundred fifty dollars ($350) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall apply to beneficiaries of state members receiving 1959 survivor allowances on January 1, 1985. All assets and liabilities of all state agencies and their employees on account of benefits provided to beneficiaries specified in this subdivision shall be pooled into a single account. The board shall transfer from the reserve for 1959 survivor contributions retained in the retirement fund, an amount sufficient to pay the cost of the increased benefits provided by this subdivision for beneficiaries of members who died on or before December 31, 1984.

(e) This section shall not apply to beneficiaries with respect to the death of a state member occurring on or after January 1, 1985, unless provided for in a memorandum of understanding reached pursuant to Section 3517.5. The memorandum of understanding adopting this section shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature as provided by law.

(f) This section shall apply, with respect to benefits payable on and after January 1, 1985, to school members, except that it shall not apply, without contract amendment, with respect to safety members . All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of school members employed by a school employer.

(g) This section shall only apply to members of a contracting agency which, by contract, first elects effective on or after January 1, 1985, to make this section applicable to local members employed by the agency. On and after January 1, 1985, contracting agencies already subject to Section 21382 or Section 21382.2 may elect by contract amendment to be subject to this section. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of members employed by a contracting agency which is subject to this section.

(h) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency which is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, such surplus will be applied to reduce its rate of contribution. If a contracting agency which is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution will be increased until the deficit is paid.

SEC. 14. Section 22754 of the Government Code is amended to read:

22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms:

(a) "Board" means the Board of Administration of the Public Employees' Retirement System.

(b) "Employee" means any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency which has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers' Retirement System employed by an employer who has elected to become subject to this part, except persons employed on an intermittent, irregular or less than half-time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are otherwise authorized by law.

(c) "Carrier" means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization ap-

proved under Title XIII of the federal Public Health Services Act, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

(d) "Health benefits plan" means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangement provided by a carrier for the purpose of providing, arranging, paying for, or reimbursing the cost of basic hospital and medical care.

(e) "Annuitant" means:

(1) Any person who has retired within 120 days of separation from employment and who receives any retirement allowance under any state or University of California retirement system to which the state was a contributing party.

(2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in subdivision (1), or as the survivor of a deceased employee under Section 21364, 21365.5 or 21382 or similar provisions of any other state retirement system.

(3) Any person who, at the time of separation from employment because of disability, was enrolled in a health benefits plan and who enters a rehabilitation program under Section 139.5 of the Labor Code and retires for disability within 120 days of termination of the rehabilitation program.

(f) "Family member" means an employee's or annuitant's spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(g) "Employee organization" means an association or other organization of employees in which membership is open to employees or annuitants of the state, and which is not organized solely or principally for the purpose of obtaining prepaid hospital and medical care, or a recognized employee organization of a contracting agency which is a city.

(h) "Contracting agency" means any contracting agency as defined in Section 20010, and any school district, county board of education, personnel commission of a school district or a county superintendent of schools.

(i) "Employer" means the state, any contracting agency employing an employee, and any agency which has elected to become subject to this part pursuant to Section 22856.

(j) "Basic plan" means a board approved or contracted for health benefits plan other than a supplemental plan.

(k) "Supplemental plan" means a health benefits plan providing supplemental benefits for persons enrolled under Medicare Parts A and B.

SEC. 15. 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 needed related, technical, and clarifying changes effected by this act needed in the Public Employees' Retirement Law and the Public Employees' Medical and Hospital Care Act may take effect at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 177

An act to amend Section 11114 of the Penal Code, relating to missing persons.

[Approved by Governor July 4, 1985. Filed with Secretary of State July 8, 1985.]

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

SECTION 1. Section 11114 of the Penal Code is amended to read:

11114. (a) When any person makes a report of a missing person to a police or sheriff's department or other law enforcement authority, the person making the report shall be given in person or by mail a form supplied by the Department of Justice authorizing the release of the dental records of the person reported missing. Included with the form shall be instructions which state that if the person reported missing is still missing 30 days after the report is made, the release form signed by a member of the family or next of kin of the missing person should be taken to the dentist or dentists of the missing person to obtain the release of the dental records and that dental records should be submitted within 10 days by the person to whom released to the police or sheriff's department or other law enforcement authority to which the missing person report was made. When the person reported missing has not been found within 30 days and no family or next of kin exists or can be located, the law enforcement authority may execute a written declaration, stating that an active investigation seeking the location of the missing person is being conducted, and that the dental records are necessary for the exclusive purpose of furthering the investigation. The written declaration, signed by a peace officer, is sufficient authority for the dentist or dentists to release the missing person's dental records.

(b) When a person reported missing has not been found within 45 days, the sheriff, chief of police, or other law enforcement authority initiating and conducting the investigation for the missing person shall confer with the coroner or medical examiner prior to the preparation of a missing person report. After conferring with the coroner or medical examiner, the sheriff, chief of police, or other law

enforcement authority initiating and conducting the investigation for the missing person shall submit a missing person report and the dental records received pursuant to subdivision (a) to the Department of Justice on forms supplied by the department for that purpose.

(c) Notwithstanding subdivisions (a) and (b), the form provided under subdivision (a) shall state that if the person reported missing is under 18 years of age, the form should be taken to the dentist or dentists immediately when the law enforcement authority determines that the disappearance was under suspicious circumstances, and that dental records should be submitted immediately thereafter to the law enforcement authority. Where authorized to execute a written declaration to obtain the release of dental records, the law enforcement authority may do so immediately when a person reported missing who is under 18 years of age is determined by the authority to have disappeared under suspicious circumstances. In any such case, the law enforcement authority should confer immediately with the coroner or medical examiners and should submit its report including the dental records within 24 hours thereafter to the Department of Justice.

(d) When a person reported missing has been found, the sheriff, chief of police, coroner or medical examiner, or other law enforcement authority shall report that information to the Department of Justice. After receiving the report, the department shall erase all records with respect to such person which are maintained pursuant to subdivision (e).

(e) The Department of Justice shall maintain a file of information concerning persons reported to it as missing and who have not been reported as found. The file shall contain the information referred to in subdivision (b) and any other information as the Department of Justice finds to be relevant to assisting in the location of a missing person.

The Department of Justice files shall be made available to law enforcement agencies attempting to locate missing persons. The department shall develop a system of cataloging missing person reports according to a variety of characteristics to facilitate locating particular categories of reports as needed.

(f) Police departments, sheriffs, and other law enforcement authorities shall accept missing person reports regardless of the legal residence of the person reported missing if the person reported missing is under 18 years of age.

SEC. 2. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 178

An act to amend Section 1012.3 of the Military and Veterans Code, relating to veterans.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985.]

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

SECTION 1. Section 1012.3 of the Military and Veterans Code is amended to read:

1012.3. Members of the home shall pay fees and charges as determined by the department, except that the total of the fees and charges for any fiscal year shall not exceed an amount which is in excess of 18 percent of the state's General Fund cost of operating the home for that year.

CHAPTER 179

An act to amend Sections 42243.8, 42243.9, and 42249 of the Education Code, to amend Sections 17525, 17551, 17557, 17579, 17610, 17612, and 17614 of, and to repeal Section 17611 of, the Government Code, and to amend Sections 2231.5 and 2246 of the Revenue and Taxation Code, relating to costs mandated by the state, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 42243.8 of the Education Code is amended to read:

42243.8. The reimbursement authorized pursuant to Section 42243.6 shall be funded by the Controller from funds specifically appropriated therefor by the Legislature. In the event that claims exceed the appropriation authorized, the Controller shall prorate the available funds among the districts submitting claims. Any amount of claims in excess of the appropriation may be referred to the Commission on State Mandates for review and possible inclusion in a subsequent claims bill.

SEC. 2. Section 42243.9 of the Education Code is amended to read:

42243.9. The governing board of any school district maintaining a program designed to remedy the harmful effects of racial segregation which originated under a court mandate may, in accordance with procedures established by the Commission on State

Mandates, submit a claim for reimbursement to the Controller for the costs of the program not otherwise reimbursed due to insufficient funds under Section 42243.6, or any other provision of law. The Controller shall review each claim submitted and shall approve reimbursement for the full costs of these programs not otherwise reimbursed. Claims for reimbursement shall be approved only for school districts which are eligible to receive reimbursement for programs to remedy the harmful effects of racial segregation under Section 42243.6.

SEC. 3. Section 42249 of the Education Code is amended 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 Commission on State Mandates for review. The commission may, for claims approved under this section, include the claims in a subsequent claims bill.

(b) Any claim presented to the Commission on State Mandates 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, all of 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. 4. Section 17525 of the Government Code is amended to

read:

17525. There is hereby created the Commission on State Mandates, which shall consist of five members as follows:

(1) The Controller.

(2) The Treasurer.

(3) The Director of Finance.

(4) The Director of the Office of Planning and Research.

(5) A public member with experience in public finance, appointed by the Governor and approved by the Senate.

The public member shall serve for a term of four years subject to renewal. The public member shall receive per diem of one hundred dollars ($100) for each day actually spent in the discharge of official duties and shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of duties as a member of the commission.

SEC. 5. Section 17551 of the Government Code is amended to read:

17551. (a) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution.

(b) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on and after January 1, 1985, that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state, as defined in Section 2207 or 2207.5 of the Revenue and Taxation Code, pursuant to a statute enacted, or an executive order implementing a statute enacted, before January 1, 1975.

(c) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, that the Controller has incorrectly reduced payments to the local agency or school district pursuant to paragraph (2) of subdivision (d) of Section 2231 of the Revenue and Taxation Code.

SEC. 6. Section 17557 of the Government Code is amended to read:

17557. If the commission determines there are costs mandated by the state pursuant to Section 17555, it shall determine the amount to be subvened to local agencies and school districts for reimbursement. In so doing it shall adopt parameters and guidelines for reimbursement of any claims relating to the statute or executive order. A local agency, school district, and the state may file a claim or request with the commission to amend, modify, or supplement the parameters or guidelines. The commission may, after public notice and hearing, amend, modify, or supplement the parameters and guidelines.

In adopting parameters and guidelines, the commission may adopt an allocation formula or uniform allowance which would provide for

reimbursement of each local agency or school district of a specified amount each year.

The parameters and guidelines adopted by the commission shall specify the fiscal years for which local agencies and school districts shall be reimbursed for costs incurred, provided, however, that the commission shall not specify therein any fiscal year for which payment could be provided in the annual Budget Act. A test claim shall be submitted on or before November 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.

SEC. 7. Section 17579 of the Government Code is amended to read:

17579. (a) Any bill introduced or amended on and after January 1, 1985, for which the Legislative Counsel has determined the bill will mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution, shall contain a section specifying that reimbursement shall be made from the fund pursuant to Section 17610 when the amount of the claim has been determined pursuant to Article 1 (commencing with Section 17550) of this chapter or that there is no mandate or that the mandate is being disclaimed and the reason therefor.

(b) Any bill introduced or amended on and after January 1, 1985, may, but is not required to, contain an appropriation to provide reimbursement of costs mandated by the state.

SEC. 8. Section 17610 of the Government Code is amended to read:

17610. (a) The costs arising from a statute containing a statement that the statute mandates a new program or higher level of service and specifying that reimbursement shall be made from the fund shall, upon certification of the estimated statewide cost by the commission to the Controller, be paid from the fund, provided that the estimated statewide cost of the claim does not exceed five hundred thousand dollars ($500,000).

(b) For purposes of this section, "estimated statewide cost" means the total amount of funds estimated to be necessary to reimburse all eligible local agencies and school districts for costs incurred as a result of the mandate during the first 12-month period following the operative date of the mandate.

(c) For purposes of this section, "costs arising from a statute" means the total amount of funds necessary to reimburse eligible local agencies and school districts for costs incurred as a result of a mandate for the fiscal years specified in the parameters and guidelines in accordance with Section 17557.

SEC. 9. Section 17611 of the Government Code is repealed.

SEC. 10. Section 17612 of the Government Code is amended to read:

17612. (a) Immediately upon receipt of the report submitted by the commission pursuant to Section 17600, 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 except where the costs have been or will be paid pursuant to Section 17610.

(b) If the Legislature deletes from a local government claims bill funding for a mandate, 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 unenforceable and enjoin its enforcement.

SEC. 11. Section 17614 of the Government Code is amended to read:

17614. There is hereby created the State Mandates Claims Fund. Notwithstanding Section 13340, money in the fund is continuously appropriated without regard to fiscal years for the sole purpose of paying claims pursuant to Section 17610.

SEC. 12. Section 2231.5 of the Revenue and Taxation Code is amended to read:

2231.5. (a) The Legislature hereby finds and declares that the increasing revenue constraints on state and local government and the increasing costs of financing state-mandated local programs make evaluation of the cumulative effects of state-mandated local programs imperative. Accordingly, it is the intent of the Legislature to establish a method for regularly reviewing the costs of state-mandated local programs, by evaluating the benefit of previously enacted mandates.

(b) Prior to the end of each calendar year, the Department of Finance shall review all statutes which created "costs mandated by the state" for which reimbursement was made enacted in the fifth preceding year. The department shall report to the Legislature on the effectiveness of each statute which created costs mandated by the state and the amount of reimbursements made for each statute to local agencies and school districts for each fiscal year. This report may be incorporated in the department's annual Chaptered Bill Report on Local Mandates, required by Section 2246. The department may recommend that the Legislature continue or modify any provision of law reviewed pursuant to this subdivision.

(c) The Legislative Analyst may review and report to the Legislature with regard to any statute or executive order which creates a state-mandated local program. The Legislative Analyst may recommend that the Legislature continue, eliminate, or modify any provision of law reviewed pursuant to this subdivision.

SEC. 13. Section 2246 of the Revenue and Taxation Code is amended to read:

2246. Before the end of each calendar year the Department of Finance shall review all statutes enacted during such calendar year which (1) contain provisions making inoperative Section 2229, 2230, 2231, or 2234 or (2) have resulted in costs or revenue losses mandated by the state which were not identified when the statute was enacted. The review shall identify the costs or revenue losses involved in complying with the provisions of the statutes. The

Department of Finance shall also review all statutes enacted in the calendar year which may result in cost savings authorized by the state. The Department of Finance shall submit to the Legislature an annual report of the review required by this section, together with the recommendations as it may deem appropriate.

SEC. 14. The provisions of this act shall take effect retroactively to January 1, 1985.

SEC. 15. 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 enact technical changes necessary to implement Chapter 1459 of the Statutes of 1984, and to assure timely and complete transfer of functions to the Commission on State Mandates which was created by that chapter, it is necessary for this act to take effect immediately.

CHAPTER 180

An act to add Sections 42247, 42247.1, 42247.2, 42247.3, and 42249.2 to the Education Code, and to amend Section 2 of Chapter 418 of the Statutes of 1984, relating to claims against the state, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 42247 is added to the Education Code, to read:

42247. (a) Notwithstanding any other provision of law, reimbursements authorized by Sections 42243.9 and 42249 for desegregation costs incurred in the 1985–86 fiscal year, and each fiscal year thereafter, shall not exceed the following amounts:

(1) For desegregation programs operating pursuant to a final court order issued prior to the effective date of this section, or January 1, 1986, as appropriate, the amount calculated pursuant to Section 42247.3.

(2) For desegregation programs initiated after the 1984–85 fiscal year, the amount in excess of one-fifth of the audited costs approved by the Controller for the first full year of operation, adjusted pursuant to Section 42247.2, and provided that the school district has contributed that one-fifth. For purposes of this paragraph, desegregation programs initiated after the 1984–85 fiscal year shall not include expansion of desegregation activities by school districts that were reimbursed pursuant to Section 42249 for desegregation

costs incurred during the 1984–85 fiscal year, except as otherwise provided by Section 42247.2.

(3) For all other desegregation programs, the amount in excess of one-fifth of the audited desegregation costs approved by the Controller and incurred in the 1984–85 fiscal year, adjusted pursuant to Section 42247.2, and provided that the school district has contributed that one-fifth.

(b) Claims for reimbursement of desegregation program costs shall be subject to audit by the Controller to determine all of the following:

(1) Whether the costs and programs are for purposes of desegregation or alleviation of the harmful effects of racial segregation, as provided in the plan filed by the district pursuant to Section 42247.1.

(2) Whether the costs are increased costs which exceed the district's expenditure levels for regular educational programs.

(3) Whether the costs are excessive or unreasonable.

SEC. 2. Section 42247.1 is added to the Education Code, to read:

42247.1. Prior to reimbursement pursuant to Section 42243.9 or 42249, the governing board of a school district shall submit to the Superintendent of Public Instruction and the Controller a copy of the district's desegregation plan, which the governing board has certified is the latest adopted plan. If the court order for desegregation encompasses the total school district desegregation plan adopted by the governing board, the governing board may submit a copy of the court order to comply with this section.

SEC. 3. Section 42247.2 is added to the Education Code, to read:

42247.2. The amount of reimbursement authorized by Section 42247 shall be increased annually by the percentage increase calculated pursuant to Section 42238.1, and by the percentage increase in total average daily attendance from the prior fiscal year in those schools included in the plan submitted by the district pursuant to Section 42247.1.

SEC. 4. Section 42247.3 is added to the Education Code, to read:

42247.3. (a) Reimbursements authorized by Section 42243.9 for programs operating pursuant to a final court order issued prior to the effective date of this section shall not exceed the sum of paragraphs (1) and (2):

(1) The audited costs approved by the Controller and incurred during the 1984–85 fiscal year, increased by the adjustment calculated pursuant to Section 42247.2.

(2) The amount in excess of one-fifth of the amount obtained by subtracting subparagraph (B) from subparagraph (A):

(A) The audited costs approved by the Controller for reimbursement pursuant to Section 42243.6 for the then current fiscal year.

(B) The amount computed pursuant to paragraph (1).

(b) Reimbursements authorized by Section 42243.9 for programs operating pursuant to a final federal court order issued prior to

January 1, 1986, but not implemented until the 1985–86 fiscal year, shall not exceed the sum of paragraphs (1) and (2):

(1) The audited costs approved by the Controller and incurred during the 1985–86 fiscal year, increased by the adjustment calculated pursuant to Section 42247.2 for each fiscal year thereafter.

(2) The amount in excess of one-fifth of the amount obtained by subtracting subparagraph (B) from subparagraph (A).

(A) The audited costs approved by the Controller for reimbursement pursuant to Section 42243.6 for the then current fiscal year.

(B) The amount computed pursuant to paragraph (1).

SEC. 5. Section 42249.2 is added to the Education Code, to read:

42249.2. (a) Notwithstanding any other provision of law, a school district that meets all of the following conditions shall be reimbursed pursuant to Section 42249 based on costs incurred in the 1981–82 fiscal year:

(1) The district developed a voluntary desegregation plan in the 1980–81 fiscal year.

(2) The district's voluntary desegregation plan was first implemented in the 1981–82 fiscal year.

(3) The district has filed a claim for costs incurred in the 1983–84 and 1984–85 fiscal years prior to the effective date of this section.

(b) A school district which has not filed a claim pursuant to Section 42249 for the 1983–84 or 1984–85 fiscal year prior to the effective date of this section shall not be eligible for reimbursement for costs incurred in those fiscal years.

(c) Commencing with the 1985–86 fiscal year, and each fiscal year thereafter, to be eligible to receive reimbursement pursuant to Section 42249 a district shall submit an estimated cost claim to the Superintendent of Public Instruction and the Controller on or before November 30 of that fiscal year.

SEC. 6. Section 2 of Chapter 418 of the Statutes of 1984 is amended to read:

Sec. 2. (a) The sum of up to seven million dollars ($7,000,000) is hereby appropriated from the General Fund for transfer to the Controller for reimbursement of estimated cost claims for voluntary integration programs for the 1984–85 fiscal year filed pursuant to, and limited to amounts approved by the State Board of Control pursuant to, Section 42249 of the Education Code (Chapter 1619 of the Statutes of 1982). These funds shall be allocated according to the following schedule:

(1) To the Long Beach Unified School District, five million two hundred nine thousand nine hundred thirty-nine dollars ($5,209,939).

(2) To other school districts, up to one million seven hundred ninety thousand sixty-one dollars ($1,790,061).

(b) The sum of up to thirty million dollars ($30,000,000) is hereby appropriated from the General Fund for transfer to the Controller for purposes of Section 42243.9 of the Education Code in the 1984–85

fiscal year.

SEC. 7. The sum of ninety-five million three hundred fifty-seven thousand one hundred twenty-three dollars ($95,357,123) is hereby appropriated from the General Fund to the Controller for the payment of claims for reimbursement of costs according to the following schedule:

(a) The sum of four million fifty thousand eight hundred eighty-four dollars ($4,050,884) to the Controller for the payment of claims for reimbursement of voluntary integration program costs for the 1983–84 fiscal year filed pursuant to Section 42249 of the Education Code (Chapter 1619 of the Statutes of 1982). These funds shall be allocated according to the following schedule:

(1) To the Santa Monica-Malibu Unified School District, two hundred twenty-nine thousand nine hundred eighty-three dollars ($229,983).

(2) To the Sweetwater Unified School District, one hundred seventy-nine thousand four hundred sixty dollars ($179,460).

(3) To the Pasadena Unified School District, one million four hundred fifty-five thousand eight hundred sixty-three dollars ($1,455,863).

(4) To the ABC Unified School District, one hundred forty-four thousand nine hundred fifty-four dollars ($144,954).

(5) To the Fresno Unified School District, two million forty thousand six hundred twenty-four dollars ($2,040,624).

(b) One million seven hundred six thousand two hundred thirty-nine dollars ($1,706,239) to the Controller for the payment of claims of the Bakersfield Elementary School District for costs incurred pursuant to Section 42243.6 of the Education Code for the 1983–84 and 1984–85 fiscal years.

(c) Thirty-four million dollars ($34,000,000) to the Controller for the payment of claims for reimbursement of estimated cost claims for voluntary integration programs for the 1983–84 fiscal year filed pursuant to, and limited to amounts approved by the Commission on State Mandates pursuant to, Section 42249 of the Education Code.

(d) Thirty-five million three hundred thousand dollars ($35,300,000) to the Controller for the payment of claims for reimbursement of estimated cost claims for voluntary integration programs for the 1984–85 fiscal year filed pursuant to, and limited to amounts approved by the Commission on State Mandates pursuant to, Section 42249 of the Education Code.

(e) Thirteen million eight hundred thousand dollars ($13,800,000) to the Controller for purposes of Section 42243.9 of the Education Code for the 1983–84 fiscal year.

(f) Six million five hundred thousand dollars ($6,500,000) to the Controller for purposes of Section 42243.9 of the Education Code for the 1984–85 fiscal year.

SEC. 8. The Commission on State Mandates shall act on each claim filed prior to the enactment of this act, pursuant to Section 42249 of the Education Code, within 75 days of the effective date of

this act. Any claim filed after the enactment of this act shall be acted upon within 75 days of filing.

SEC. 9. It is the intent of the Legislature to include funding in the Budget Act of 1986 to fully compensate the 1985–86 and 1986–87 fiscal year voluntary and court-ordered desegregation claims.

SEC. 10. This act is an urgency statute necessary for the 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 local government claims against the state and to end hardship to local governments, it is necessary that this act take effect immediately.

CHAPTER 181

An act to amend Section 9873 of the Business and Professions Code, relating to electronic and appliance repair dealers, and making an appropriation therefor.

[Approved by Governor July 4, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 9873 of the Business and Professions Code is amended to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred thirty dollars ($130) for each place of business in this state. The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than two hundred sixty dollars ($260).

(b) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred thirty dollars ($130) for each place of business in this state, if renewed prior to its expiration date. The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than two hundred thirty-five dollars ($235).

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for such license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

CHAPTER 182

An act to amend Section 22754 of the Government Code, relating to county employees.

[Approved by Governor July 8, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 22754 of the Government Code is amended to read:

22754. As used in this part, the following definitions, unless the context otherwise requires, govern the interpretation of terms:

(a) "Board" means the Board of Administration of the Public Employees' Retirement System.

(b) "Employee" means any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency which has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers' Retirement System employed by an employer who has elected to become subject to this part, except persons employed on an intermittent, irregular, or less than half-time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are otherwise authorized by law.

(c) "Carrier" means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

(d) "Health benefits plan" means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangement provided by a carrier for the purpose of providing, arranging, paying for, or reimbursing the cost of basic hospital and medical care and for major

medical or other comprehensive benefit plans.

(e) "Annuitant" means:

(1) Any person who has retired within 120 days of separation from employment and who receives any retirement allowance under any state or University of California retirement system to which the state was a contributing party.

(2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in paragraph (1), or as the survivor of a deceased employee under Section 21364, 21365.5 or 21382 or similar provisions of any other state retirement system.

(3) Any person who, at the time of separation from employment because of disability, was enrolled in a health benefits plan and who enters a rehabilitation program under Section 139.5 of the Labor Code and retires for disability within 120 days of termination of the rehabilitation program.

(f) "Family member" means an employee's or annuitant's spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(g) "Employee organization" means an association or other organization of employees in which membership is open to employees or annuitants of the state, and which is not organized solely or principally for the purpose of obtaining prepaid hospital and medical care.

(h) "Contracting agency" means any contracting agency as defined in Section 20010, any county subject to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450), Part 3, Division 4, Title 3), and any school district, county board of education, personnel commission of a school district, or a county superintendent of schools.

(i) "Employer" means the state, any contracting agency employing an employee, and any agency which has elected to become subject to this part pursuant to Section 22856.

(j) "Basic plan" means a board approved or contracted for health benefits plan other than a supplemental plan.

(k) "Supplemental plan" means a health benefits plan providing supplemental benefits for persons enrolled under Medicare Parts A and B.

CHAPTER 183

An act to add Section 4850.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor July 8, 1985 Filed with Secretary of State July 8, 1985]

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

SECTION 1. Section 4850.5 is added to the Vehicle Code, to read:

4850.5. (a) Notwithstanding subdivision (a) of Section 4850 and Section 5200, the department, upon registering a truck tractor, shall issue to the owner one suitable license plate or other device which identifies the vehicle for which it is issued and for the period of its validity. The license plate or other device shall be attached to the front of the vehicle.

(b) This section shall become operative only when and if the Department of the California Highway Patrol implements a program which requires identifying numbers on the right and left sides of truck tractors.

CHAPTER 184

An act to amend Section 84313 of, and to add Section 84310.2 to, the Education Code, relating to community college finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 9, 1985.]

I am deleting the $5 million appropriation contained in Section 3 (d) of Assembly Bill No 539

I am concerned that the shortfall in funding for the Los Angeles Community College District (LACCD) may have resulted from their failure to exercise prudent fiscal management Before additional funds are allocated, I believe reforms should be instituted to assure that this shortfall is not repeated

I am willing to support a loan for LACCD if it is accompanied by strong auditing provisions and a permanent incentive for improved fiscal management As a case in point, I believe that community college students should have the same opportunity as students attending the University of California and CSU to choose the campus which most closely meets the students' needs and interests Further, competition in operational efficiency and in program development among community college districts which would result from granting students this choice can provide incentives for improved management Therefore, I have requested Senator Bob Beverly to amend his Senate Bill 225 to include an appropriation for a loan to LACCD, because SB 225 includes this necessary reform.

With this reform, I would support the proposed LACCD loan

With this deletion, I approve Assembly Bill No. 539

George Deukmejian, Governor

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

SECTION 1. Section 84310.2 is added to the Education Code, to read:

84310.2. In providing comments and recommendations to the Director of Finance pursuant to subdivision (d) of Section 84310, the chancellor shall consider the percentage of the district's budget that

is expended on the costs of administration, on salaries of nonteaching certificated staff, and on salaries of classroom teaching staff, and the workload of classroom instructors in the district, and include comments and recommendations regarding the impact of these factors on the district's ability to repay the loan.

SEC. 2. Section 84313 of the Education Code is amended to read:

84313. For each of three fiscal years, the Controller shall deduct from apportionments paid to a community college district pursuant to law, an amount not less than one-third of the amount actually allocated to the district pursuant to this article, together with amounts representing interest at a rate based on the most current investment rate of the Pooled Money Investment Account as of the date of the disbursement of funds to the district.

For each of three fiscal years, the amount deducted by the Controller pursuant to this section shall be reapportioned to the source of the funds allocated to the district pursuant to this article. Amounts so reapportioned to Section B of the State School Fund shall be apportioned by the Chancellor of the California Community Colleges to community college districts to alleviate any deficits in state funding in the year in which the loan is made or during the period of repayment. Unless otherwise determined pursuant to Section 84313.5, the three-year repayment period shall consist of three consecutive fiscal years commencing with the fiscal year following the year in which the emergency apportionment is made.

SEC. 3. The sum of nine million eight hundred thousand dollars ($9,800,000) is hereby appropriated from the General Fund to Section B of the State School Fund for emergency apportionments pursuant to Article 2 (commencing with Section 84309) of Chapter 3 of Part 50 of the Education Code, according to the following schedule:

(a) For Chaffey Community College District, for the 1984–85 fiscal year	$2,000,000
(b) For Lassen Community College District, for the 1984–85 fiscal year	$ 800,000
(c) For Peralta Community College District, for the 1984–85 fiscal year	$2,000,000
(d) For Los Angeles Community College District, for the 1984–85 fiscal year	$5,000,000

SEC. 4. As a condition of receiving an emergency apportionment pursuant to this act, the governing board of the Los Angeles Community College District shall biannually report to the Legislature and the Governor describing what progress, if any, has been made with regard to the sale of surplus property owned by the district, and compliance with previous directives given to the governing board in prior fiscal years.

SEC. 5. Due to the unique circumstances affecting the Chaffey Community College District, the Los Angeles Community College

District, the Lassen Community College District, and the Peralta Community College District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 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 provide necessary emergency apportionments to enable the Chaffey Community College District, the Lassen Community College District, the Los Angeles Community College District, and the Peralta Community College District to meet their contractual obligations and other cash flow requirements for the 1984–85 fiscal year, and in order to make the new requirements pertaining to emergency apportionments established by this act applicable to the emergency apportionments to those districts, it is necessary that this act take effect immediately.

CHAPTER 185

An act to amend Section 42127 of the Education Code, relating to education.

[Approved by Governor July 9, 1985. Filed with Secretary of State July 10, 1985.]

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

SECTION 1. Section 42127 of the Education Code is amended to read:

42127. (a) On or before the first day in July in each year, each school district shall file a tentative budget with the county superintendent of schools.

(1) The budget shall indicate the date, time, and location at which the governing board of the district will hold the public hearing required pursuant to Section 42103.

(2) If the governing board of the district does not want all or a portion of the property tax requirement levied for the purpose of making payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, the budget shall include a statement of the amount or portion for which a levy shall not be made.

(3) For the 1981–82 fiscal year only, the information specified in paragraphs (1) and (2) may be filed separately, but no later than August 1, 1981.

(b) On or before August 1, in each year, the county superintendent of schools:

(1) Shall examine and make technical corrections to the tentative

budget and indicate changes he or she deems desirable or necessary to determine any tax requirement.

(2) Shall make any recommendations he or she deems necessary to ensure that the proposed expenditures do not exceed the anticipated revenues and that the anticipated revenues are realistic, and shall transmit to the governing board a written explanation of the reasons for those changes.

(3) May make written recommendations as to anticipated revenues at any time prior to final adoption of the budget by the governing board of the district.

(4) May accept changes in the date, time, or location of the public hearing pursuant to Section 42103 and changes in the statement required by paragraph (2) of subdivision (a) of the amount or portion for which a property tax levy shall not be made.

(c) The county superintendent or the county auditor shall compute the actual amounts to be levied on the property tax rolls of the district for purposes which exceed apportionments to the district pursuant to Sections 95 to 100, inclusive, of the Revenue and Taxation Code. Each school district shall provide all data needed by the county superintendent or the county auditor to compute the amounts. On or before August 15, the county superintendent shall transmit the amounts so computed to the county auditor who shall compute the tax rates necessary to produce the amounts. On or before September 1, the county auditor shall submit the rate so computed to the board of supervisors for adoption.

(d) On or before the seventh day of September, the governing board of each school district shall adopt a final budget including any tax requirements computed pursuant to subdivision (c) as adjusted by paragraph (2) of subdivision (a) of Section 42127 and shall file that budget with the county superintendent of schools.

(e) On or before the 15th day of September, the county superintendent shall approve the adopted budget for each school district as officially adopted and submitted by its governing board, and shall file one copy of the adopted budget for each school district with the auditor of his or her county and one copy with the Superintendent of Public Instruction.

CHAPTER 186

An act to amend Sections 11126 and 65913.5 of the Government Code, and to amend Sections 61, 62, 68, 75.10, 75.15, 75.21, 75.31, 110.1, 276, 428, 532.3, and 4986 of, to amend and renumber Sections 38561, 38562, and 38563 of, to amend and renumber the heading of Article 7 (commencing with Section 38561) of Chapter 6 of Part 18.5 of Division 2 of, to add Sections 38503, 38525, and 38574 to, and to add Article 7 (commencing with Section 38561) to Chapter 6 of Part 18.5 of Division 2 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 11126 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) Nothing in this article shall be construed to prevent a state body which invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For

purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues which could have a material effect on the net income of the corporation.

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

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

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

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

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

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

(t) Nothing in this article shall be construed to prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining

committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

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

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

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

(x) Nothing in this article shall be construed to prevent the State Board of Equalization from holding closed sessions when considering matters pertaining to the appointment or removal of the executive secretary of the State Board of Equalization, or for the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

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

SEC. 2. Section 65913.5 of the Government Code is amended to read:

65913.5. (a) Any party may protest the establishment of the imposition of any fees, taxes (other than ad valorem property taxes imposed pursuant to Division 1 (commencing with Section 50) of the Revenue and Taxation Code), assessments, dedications, reservations, or other exactions imposed on a residential housing development by a city, county, city and county, or any other local public entity at any time prior to the expiration of the limitation period of subdivision (d) by meeting both of the following requirements:

(1) Tendering any required payment in full or providing satisfactory evidence of arrangements to ensure performance of the conditions necessary to meet the requirements of the imposition.

(2) Serving written notice on the governing body of the entity which notice shall contain all of the following information:

(A) A statement that the required payment is tendered, or that any conditions which have been imposed are provided for or satisfied, under protest.

(B) A statement informing the governing body of the factual elements of the dispute and the legal theory forming the basis for the

protest.

(b) Compliance by any party with the provisions of subdivision (a) shall not be the basis for a city, county, city and county, or any other local public entity to withhold approval of any map, plan, permit, zone change, license, or other form of permission, or concurrence, whether discretionary, ministerial, or otherwise, incident to, or necessary for, the development of the residential housing development. This section does not limit the ability of a public agency to ensure compliance with all applicable provisions of law in determining whether or not to approve or disapprove a development project.

(c) Where a reviewing public agency makes proper and valid findings that the construction of certain public improvements or facilities, the need for which is directly attributable to the proposed residential housing development, is required for reasons related to the public health, safety, and welfare, and elects to impose a requirement for construction of those improvements or facilities as a condition of approval of the proposed development, then in the event a protest is lodged pursuant to this section, such approval shall be suspended pending withdrawal of the protest, the expiration of the limitation period of subdivision (d) without the filing of an action, or resolution of any action filed. This subdivision confers no new or independent authority for imposing fees, taxes, assessments, dedications, reservations, or other exactions not presently governed by other law.

(d) A protest filed pursuant to subdivision (a) shall be filed within 90 days after the date of the establishment of the fees, taxes, assessments, dedications, reservations, or other exactions to be imposed on a residential housing development. Any party who files a protest pursuant to subdivision (a) may file an action to attack, review, set aside, void, or annul the imposition of the fees, taxes, assessments, dedications, reservations, or other exactions imposed on a residential housing development by a city, county, city and county, or any other local public entity within 180 days after the date of the establishment of the imposition. Thereafter, notwithstanding any other law to the contrary, all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such imposition. Any such proceeding shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain, forcible entry, and unlawful detainer proceedings.

(e) If the court finds in favor of the plaintiff in any action or proceeding brought pursuant to subdivision (d), the court shall direct the city, county, city and county, or any other local public entity to refund the unlawful portion of the payment or return the unlawful portion of the exaction imposed, with interest at the rate of 8 percent per annum.

SEC. 3. Section 61 of the Revenue and Taxation Code is amended to read:

61. Except as otherwise provided in Section 62, change in

ownership, as defined in Section 60, includes, but is not limited to:

(a) The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals regardless of the period during which the right may be exercised. The balance of the property, other than the mineral rights, shall not be reappraised pursuant to this section.

(b) The creation, renewal, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term.

(c) (1) The creation of a leasehold interest in taxable real property for a term of 35 years or more (including renewal options), the termination of a leasehold interest in taxable real property which had an original term of 35 years or more (including renewal options), and any transfer of a leasehold interest having a remaining term of 35 years or more (including renewal options); or (2) any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of less than 35 years.

Only that portion of a property subject to such lease or transfer shall be considered to have undergone a change of ownership.

For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(d) The creation, transfer, or termination of any joint tenancy interest, except as provided in subdivision (f) of Section 62, Section 63 and Section 65.

(e) The creation, transfer, or termination of any tenancy-in-common interest, except as provided in subdivision (a) of Section 62 and in Section 63.

(f) Any vesting of the right to possession or enjoyment of a remainder or reversionary interest which occurs upon the termination of a life estate or other similar precedent property interest, except as provided in subdivision (d) of Section 62 and in Section 63.

(g) Any interests in real property which vest in persons other than the trustor (or, pursuant to Section 63, his spouse) when a revocable trust becomes irrevocable.

(h) The transfer of stock of a cooperative housing corporation, as defined in Section 17265, vested with legal title to real property which conveys to the transferee the exclusive right to occupancy and possession of such property, or a portion thereof.

(i) The transfer of any interest in real property between a corporation, partnership, or other legal entity and a shareholder, partner, or any other person.

SEC. 4. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) (1) Any transfer between coowners which results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common.

(2) Any transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, which results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. The provisions of this paragraph shall not apply to transfers also excluded from change in ownership under the provisions of subdivision (b) of Section 64.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse, or by both, into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after the creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land and have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage, provided that mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or that housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of that person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975 to March 1, 1981, between coowners in any property which was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980–81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980–81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of the aforementioned corporations, or any combination thereof (including any transfer from one such entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(*l*) Any transfer, which would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, "eligible dwelling unit" means the dwelling unit which was the principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

(n) Any transfer of an eligible dwelling unit, whether by will,

devise, or inheritance, from a parent or parents to a child or children, or from a guardian or guardians to a ward or wards, if the child, children, ward, or wards have been disabled, as provided in subdivision (e) of Section 12304 of the Welfare and Institutions Code, for at least five years preceding the transfer and if the child, children, ward, or wards have adjusted gross income which, when combined with the adjusted gross income of a spouse or spouses, parent or parents, and child or children, does not exceed twenty thousand dollars ($20,000) in the year in which the transfer occurs. As used in this subdivision, "child" or "ward" includes a minor or an adult. As used in this subdivision, "eligible dwelling unit" means the dwelling unit which was the principal place of residence of the child or children, or ward or wards for at least five years preceding the transfer and remains the principal place of residence of the child or children, or ward or wards after the transfer. Any transferee whose property was reassessed in contravention of the provisions of this subdivision for the 1984–85 assessment year shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than 30 days after the later of either the transferee's receipt of notice of reassessment pursuant to Section 75.31 or the end of the 1984–85 fiscal year.

SEC. 5. Section 68 of the Revenue and Taxation Code is amended to read:

68. For purposes of Section 2 of Article XIII A of the Constitution, 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 property in this state by eminent domain proceedings, by acquisition by a public entity, or by governmental action which has resulted in a judgment of inverse condemnation.

The adjusted base year value of the property acquired shall be the lower of the fair market value of the property acquired or the value which is the sum of the following:

(a) The adjusted base year value of the property from which the person was displaced.

(b) The amount, if any, by which the full cash value of the property acquired exceeds 120 percent of the amount received by the person for the property from which the person was displaced.

The provisions of this section shall apply to eminent domain proceedings, acquisitions, or judgments of inverse condemnation after March 1, 1975, and shall affect only those assessments of that property which occur after June 8, 1982.

Persons acquiring replacement property between March 1, 1975, and January 1, 1983, shall request assessment under this section with the assessor on or before January 1, 1987. Persons acquiring replacement property on and after January 1, 1983, shall request assessment within four years of the date the property was acquired by eminent domain or purchase or the date the judgment of inverse

condemnation becomes final.

Any change in the adjusted base year value of the replacement property acquired, resulting from the application of the provisions of this section, shall be deemed to be effective on the first day of the month following the month in which the property is acquired. The change in value shall be treated as a change in ownership for the purpose of placing supplemental assessments on the supplemental roll pursuant to Chapter 3.5 (commencing with Section 75). The assessor shall, however, appraise the replacement property acquired in accordance with the provisions of this section rather than the provisions of Section 75.10. The provisions of Chapter 3.5 shall be liberally construed in order to provide the benefits of this section and Section 2 of Article XIII A of the California Constitution to affected property owners at the earliest possible date.

SEC. 6. Section 75.10 of the Revenue and Taxation Code is amended to read:

75.10. (a) Commencing with the 1983–84 assessment year and each assessment year thereafter, whenever a change in ownership occurs or new construction resulting from actual physical new construction on the site is completed, the assessor shall appraise the property changing ownership or the new construction at its full cash value (except as provided in Section 68) on the date the change in ownership occurs or the new construction is completed. The value so determined shall be the new base year value of the property or the new construction.

(b) For purposes of this section, "actual physical new construction" includes the discovery of previously unknown reserves of oil or gas.

SEC. 7. Section 75.15 of the Revenue and Taxation Code, as added by Section 6.5 of Chapter 946 of the Statutes of 1984, is amended to read:

75.15. (a) For fixtures, other than fixtures which are included in a change of ownership or which are included in a structure and are assessed at the completion of the new construction of a structure pursuant to Section 75.12, taxpayers shall report, beginning in 1985, to the assessor once each year at the time the annual property statement is due, on the fixtures added to real property and fixtures removed from real property, the dates of those additions and removals, and the cost of each in the prior 12-month period from March 1 to March 1. One supplemental tax bill shall be prepared for those fixtures based on the cost of the fixtures added and subtracted from real property, the date of each addition or subtraction, and the appropriate tax rate computed pursuant to Section 75.41.

The taxes due from the resulting tax bill shall be collected in the same manner and at the same times as other supplemental tax bills mailed on the same date.

(b) As used in this section, a fixture is an item of tangible property, the nature of which was originally personalty, but which is classified as realty for property tax purposes because it is physically or

constructively annexed to realty with the intent that it remain annexed indefinitely.

The phrase "annexed indefinitely" means the item is intended to remain annexed until worn out, until superseded by a more suitable replacement, or until the purpose to which the realty is devoted has been accomplished or materially altered.

Property is physically annexed if it is attached to, imbedded in, or permanently resting upon land or improvements in accordance with Section 660 of the Civil Code, or by other means that are normally used for permanent installation. If the property being classified cannot be removed without substantially damaging it or the real property with which it is being used, it is to be considered physically annexed. If the property can be removed without material damage but is actually attached, it is to be classified as a fixture unless there is an intent, as manifested by outward appearance or historic usage, that the item is to be moved and used at other locations.

Property may be considered physically annexed if the weight, the size, or both are such that relocation or removal of the property would be so difficult that the item appears to be intended to remain in place indefinitely.

Property shall not be considered physically annexed to realty solely because of attachment of the realty by "quick disconnect" attachments, such as simple wiring and conduit connections.

Property not physically annexed to realty (including fixtures) is constructively annexed if it is a necessary, integral, or working part of the realty. Factors to be considered in determining whether the property is a necessary, integral, or working part of the realty are whether the nonattached item is designed or committed for use with specific realty, or whether the realty can perform its desired function without the nonattached item.

Property connected to the realty by quick disconnect conduits which contain power or electronic cable, or allow for heating, cooling, or ventilation service to the connected property is constructively annexed only if it satisfies one of the factors in the above paragraph.

(c) For the purposes of the supplemental roll, taxpayers shall report pursuant to this section only those fixtures which are taxable on the supplemental roll.

(d) This section shall cease to be operative on March 1, 1987, and on that date is repealed.

SEC. 8. Section 75.15 of the Revenue and Taxation Code, as added by Section 6.9 of Chapter 946 of the Statutes of 1984, is amended to read:

75.15. (a) For fixtures, other than fixtures which are included in a change of ownership or which are included in a structure and are assessed at the completion of the new construction of a structure pursuant to Section 75.12, taxpayers shall report, beginning in 1987, to the assessor once each year at the time the annual property statement is due, on the fixtures added to real property and fixtures

removed from real property, the dates of those additions and removals, and the cost of each in the prior 12-month period from March 1 to March 1. One supplemental tax bill shall be prepared for those fixtures based on the cost of the fixtures added and subtracted from real property, the date of each addition or subtraction, and the appropriate tax rate computed pursuant to Section 75.41.

The taxes due from the resulting tax bill shall be collected in the same manner and at the same times as other supplemental tax bills mailed on the same date.

(b) For the purposes of the supplemental roll, taxpayers shall report pursuant to this section only those fixtures which are taxable on the supplemental roll.

(c) This section shall become operative on March 1, 1987, and shall apply to supplemental taxes for the 1987–88 fiscal year and fiscal years thereafter.

SEC. 9. Section 75.21 of the Revenue and Taxation Code is amended to read:

75.21. (a) Exemptions shall be applied to the amount of the supplemental assessment, provided that the property is not receiving any other exemption on either the current roll or the roll being prepared except as provided for in subdivision (b), that the assessee is eligible for the exemption, and that in those instances in which the provisions of this division require the filing of claims for exemption, the assessee makes a claim for the exemption.

(b) If the property received an exemption on the current roll or the roll being prepared and the assessee on the supplemental roll is eligible for an exemption and in those instances in which the provisions of this division require the filing of claims for exemption, the assessee makes a claim for an exemption of a greater amount, then the difference in the amount between the two exemptions shall be applied to the supplemental assessment.

(c) In those instances in which the provisions of this division require the filing of claims for exemption, any person claiming to be eligible for an exemption to be applied against the amount of the supplemental assessment shall file a claim or an amendment to a current claim, in such form as prescribed by the board, on or before the 30th day following the date of notice of the supplemental assessment, in order to receive 100 percent exemption.

(1) With respect to property as to which the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, public schools, community colleges, state colleges, state universities, or welfare exemption was available but for which a timely application for exemption was not filed, 90 percent of any tax or penalty or interest thereon shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 72.52. Notwithstanding the above provision, any tax or penalty or interest thereon exceeding two hundred fifty dollars

($250) in total amount shall be canceled or refunded, provided that it is imposed upon property entitled to relief under the above provision for which an appropriate claim for exemption has been filed.

(2) With respect to property as to which the veterans', homeowners', or disabled veterans' exemption was available but for which a timely application for exemption was not filed, 80 percent of any tax or penalty or interest thereon shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(3) With respect to property as to which any other exemption was available, but for which a timely application for exemption was not filed, 90 percent of any tax or penalty or interest thereon shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment or taxes on the supplemental tax bill becomes delinquent, as provided by Section 72.52.

Where a late application for exemption has not been filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, no exemption is available. Other provisions of this division pertaining to the late filing of claims for exemption do not apply to assessments made pursuant to this chapter.

SEC. 10. Section 75.31 of the Revenue and Taxation Code is amended to read:

75.31. (a) Whenever the assessor has determined a new base year value as provided in Section 75.10, the assessor shall send a notice to the assessee showing the following:

(1) The new base year value of the property which has changed ownership, or the new base year value of the completed new construction which shall be added to the existing taxable value of the remainder of the property.

(2) The taxable value appearing on the current roll, and if the change in ownership or completion of new construction occurred between March 1 and May 31, the taxable value on the roll being prepared.

(3) The date of the change in ownership or completion of new construction.

(4) The amount of the supplemental assessments.

(5) The exempt amount, if any, on the current roll or the roll being prepared.

(6) The date the notice was mailed.

(7) A statement that the supplemental assessment was determined in accordance with Article XIII A of the California Constitution which generally requires reappraisal of property whenever a change in ownership occurs or property is newly constructed.

(8) Any other information which the board may prescribe.

(b) In addition to the information specified in subdivision (a), the notice shall inform the assessee of the procedure for filing a claim for exemption which is to be filed within 30 days of the date of the notice.

(c) The notice shall advise the assessee of the right to appeal the supplemental assessment, and, unless subject to subdivision (d), that the appeal must be filed within 60 days of the date of the notice. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605, except that the application shall be filed within 60 days of notice, unless governed by subdivision (d).

(d) For counties of the first class, the notice shall advise the assessee of the right to appeal the supplemental assessment, and that the appeal must be filed within 60 days of the date of the mailing of the tax bill. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(e) The notice shall advise the assessee that if the supplemental assessment is a negative amount the auditor shall make a refund of a portion of taxes paid on assessments made on the current roll, or the roll being prepared, or both.

(f) The notice shall be furnished by the assessor to the assessee by regular United States mail directed to the assessee at the assessee's latest address known to the assessor.

SEC. 11. Section 110.1 of the Revenue and Taxation Code is amended to read:

110.1. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, "full cash value" of real property, including possessory interests in real property, means the fair market value as determined pursuant to Section 110 for either of the following:

(1) The 1975 lien date.

(2) For property which is purchased, is newly constructed, or changes ownership after the 1975 lien date, either of the following:

(A) The date on which a purchase or change in ownership occurs.

(B) The date on which new construction is completed, and if uncompleted, on the lien date.

(b) The value determined under subdivision (a) shall be known as the base year value for the property.

(c) Notwithstanding Section 405.5, for property which was not purchased or newly constructed or has not changed ownership after the 1975 lien date, if the value as shown on the 1975–76 roll is not its 1975 lien date base year value and if the value of that property had not been determined pursuant to a periodic reappraisal under Section 405.5 for the 1975–76 assessment roll, a new 1975 lien date base year value shall be determined at any time until June 30, 1980, and placed on the roll being prepared for the current year; provided, however, that for any county over four million in population the

board of supervisors may adopt a resolution granting the assessor of that county until June 30, 1981, the authority to determine those values. Regardless of the foregoing restrictions, property that escaped taxation for 1975 and was not merely underassessed for that year, shall be added to the roll in any year in which the escape is discovered at its 1975 base year value indexed to reflect inflation as provided in subdivision (f). In determining the new base year value for that property, the assessor shall use only those factors and indicia of fair market value actually utilized in appraisals made pursuant to Section 405.5 for the 1975 lien date. The new base year values shall be consistent with the values established by reappraisal for the 1975 lien date of comparable properties which were reappraised pursuant to Section 405.5 for the fiscal year. In the event that determination is made, no escape assessment may be levied and the newly determined "full cash value" shall be placed on the roll for the current year only; provided, however, the preceding shall not prohibit a determination which is made prior to June 30 of a fiscal year from being reflected on the assessment roll for the current fiscal year.

(d) If the value of any real property as shown on the 1975–76 roll was determined pursuant to a periodic appraisal under Section 405.5, that value shall be the 1975 lien date base year value of the property.

(e) As used in subdivisions (c) and (d), a parcel of property shall be presumed to have been appraised for the 1975–76 fiscal year if the assessor's determination of the value of the property for the 1975–76 fiscal year differed from the value used for purposes of computing the 1974–75 fiscal year tax liability for the property, but the assessor may rebut that presumption by evidence that, notwithstanding the difference in value, that parcel was not appraised pursuant to Section 405.5 for the 1975–76 fiscal year.

(f) For each lien date after the lien date in which the full cash value is determined pursuant to this section, the full cash value of real property, including possessory interests in real property, shall be adjusted by an inflation factor, which shall be determined as provided in subdivision (a) of Section 51.

SEC. 11.1. Section 276 of the Revenue and Taxation Code is amended to read:

276. (a) A claimant for the disabled veterans' property tax exemption for the 1976–77 fiscal year or any year thereafter may qualify for a partial exemption if the claimant fails to file the required affidavit with the assessor by 5 p.m. on April 15 of the calendar year in which the fiscal year begins, but files the claims on or before the following December 1. Commencing with the 1979–80 assessment year, late-filed claims for the forty thousand dollar ($40,000) exemption provided in Section 205.5 shall receive the lesser of thirty-two thousand dollars ($32,000) or 80 percent of the full value of the dwelling. Late-filed claims for the sixty thousand dollar ($60,000) exemption provided in Section 205.5, when filed in conjunction with the late-filed claim for the forty thousand dollar

($40,000) exemption, shall receive the lesser of forty-eight thousand dollars ($48,000) or 80 percent of the full value of the dwelling. Late-filed claims for the sixty thousand dollar ($60,000) exemption, when filed in conjunction with timely filed claims for the forty thousand dollar ($40,000) exemption, shall receive the lesser of fifty-six thousand dollars ($56,000) or forty thousand dollars ($40,000) plus 80 percent of the full value of the dwelling over forty thousand dollars ($40,000). Commencing with the 1984–85 assessment year, late-filed claims for the one hundred thousand dollars ($100,000) exemption provided in Section 205.5 shall receive the lesser of eighty thousand dollars ($80,000) or 80 percent of the full value of the dwelling.

(b) On those claims filed pursuant to subdivision (a) after November 15, this exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10, and the delinquent penalty provided for in this division will attach if the tax amount due is not paid.

If this exemption is applied to the second installment and if both installments are paid on or before December 10, or if the reduction in taxes from this exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

(c) This section shall be operative on January 1, 1981, and shall be applied with regard to claims filed for the 1981–82 fiscal year and fiscal years thereafter.

SEC. 11.2. Section 428 of the Revenue and Taxation Code is amended to read:

428. The provisions of this article shall not apply to any residence, including any agricultural laborer housing facility as provided for in Sections 51220, 51231, 51238, and 51282.3 of the Government Code, on the land being valued or to an area of reasonable size used as a site for such a residence.

SEC. 11.3. Section 532.3 of the Revenue and Taxation Code is amended to read:

532.3. Notwithstanding Section 532, any property which was underassessed for the 1975–76 fiscal year may be assessed, provided that the assessment is made on or before June 30, 1980.

SEC. 12. Section 4986 of the Revenue and Taxation Code is amended to read:

4986. (a) All or any portion of any tax, penalty, or costs, heretofore or hereafter levied, shall, on satisfactory proof, be canceled by the auditor on order of the board of supervisors with the written consent of the county legal adviser if it was levied or charged:

(1) More than once.

(2) Erroneously or illegally.

(3) On the canceled portion of an assessment that has been decreased pursuant to a correction authorized by Article 2 (commencing with Section 4876) of Chapter 2.

(4) On property which did not exist on the lien date.

(5) On property annexed after the lien date by the public entity owning it.

(6) On property acquired by the United States, the state, or by any county, city, school district or other public entity, to the extent provided in Article 5 (commencing with Section 5081).

(7) On that portion of an assessment in excess of the value of the property as determined by the assessor pursuant to Section 469.

(b) No cancellation under paragraph (2) of subdivision (a) shall be made in respect of all or any portion of any tax, or penalties or costs attached thereto, collectible by county officers on behalf of a city without the written consent of the city attorney or other officer designated by the city council unless the city council, by resolution filed with the board of supervisors, has authorized the cancellation by county officers. The resolution shall remain effective until rescinded by the city council.

SEC. 13. Section 38503 is added to the Revenue and Taxation Code, to read:

38503. 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 timber owner liable for any amount under this part to withhold from those credits or other personal property the amount of any tax, interest, or penalties due from the timber owner, or the amount of any liability incurred by him or her 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. 14. Section 38525 is added to the Revenue and Taxation Code, to read:

38525. (a) If the board determines that the amount of tax, interest, and penalties are sufficiently secured by a lien or other property or that the release or subordination of the lien imposed under this article will not jeopardize the collection of the amount of the tax, interest, and penalties, the board may at any time release all or any portion of the property subject to the lien from the lien or may subordinate the lien to other liens and encumbrances.

(b) If the board finds that the liability represented by the lien imposed under this article, including any interest accrued thereon, is legally unenforceable, the board may release the lien.

(c) A certificate by the board to the effect that any property has been released from a lien or that the lien has been subordinated to other liens and encumbrances is conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

SEC. 15. Article 7 (commencing with Section 38561) is added to

Chapter 6 of Part 18.5 of Division 2 of the Revenue and Taxation Code, to read:

Article 7. Payment on Termination of Business and Successor's Liability

38561. If any person liable for any amount under this part sells out his or her business or quits the business, the person's successors or assigns shall withhold sufficient of the purchase price to cover the amount until the former owner produces a receipt from the board showing that it has been paid or a certificate stating that no amount is due.

38562. If the purchaser of a business fails to withhold purchase price as required, the purchaser becomes personally liable for the payment of the amount required to be withheld by him or her to the extent of the purchase price, valued in money. Within 60 days after receiving a written request from the purchaser for a certificate, or within 60 days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than 90 days after receiving the request, or 90 days from the date of the sale of the business, whichever period expires later, the board shall either issue the certificate or mail notice to the purchaser, at his or her address as it appears on the records of the board, of the amount that must be paid as a condition of issuing the certificate. Failure of the board to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the obligation of the successor may be enforced shall start to run at the time the person sells out his or her business or at the time that the determination against the person becomes final, whichever event occurs later.

38563. The certificate may be issued after the payment of all amounts due under this part, according to the records of the board as of the date of this certificate, or after the payment of the amounts is secured to the satisfaction of the board. This security is not subject to the limitations contained in Section 38501.

38564. The obligation of the successor shall be enforced by serving a notice of successor liability on the person. The notice shall be served in the manner prescribed for service of a notice of a deficiency determination. The successor may petition for reconsideration in the manner provided in Article 5 (commencing with Section 38441) of Chapter 5. The notice shall become final and the amount due and payable in the manner provided in that article except that no additional penalty shall apply if not paid when due and payable. The provisions of this chapter with respect to the collection of any amount required to be paid under this part shall apply when the notice becomes final.

38565. If at the time a business is discontinued the board holds security pursuant to Section 38501 in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions,

this security when applied to the account of the taxpayer shall be deemed to be a payment on account of any liability of the taxpayer to the board on the date the business is discontinued.

SEC. 16. The heading of Article 7 (commencing with Section 38561) of Chapter 6 of Part 18.5 of Division 2 of the Revenue and Taxation Code is amended and renumbered to read:

Article 8. Miscellaneous Provisions

SEC. 17. Section 38561 of the Revenue and Taxation Code is amended and renumbered to read:

38571. The board shall report to the Controller the amount of collections under this part, and the Controller shall keep a record thereof.

SEC. 18. Section 38562 of the Revenue and Taxation Code is amended and renumbered to read:

38572. The remedies of the state provided for in this chapter are cumulative, and no action taken by the board or Attorney General constitutes an election by the state to pursue any remedy to the exclusion of any other remedy for which provision is made in this part.

SEC. 19. Section 38563 of the Revenue and Taxation Code is amended and renumbered to read:

38573. In all proceedings under this chapter the board may act on behalf of the people of the State of California.

SEC. 20. Section 38574 is added to the Revenue and Taxation Code, to read:

38574. (a) Upon termination, dissolution, or abandonment of a corporate business, any officer or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of tax, or who is under a duty to act for the corporation in complying with any requirement of this part, shall be personally liable for any unpaid taxes and interest and penalties on those taxes, if that officer or other person willfully fails to pay or to cause to be paid any taxes due from the corporation pursuant to this part.

(b) The officer or other person shall be liable only for taxes which became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation described in subdivision (a), plus interest and penalties on those taxes.

(c) For purposes of this section, "willfully fails to pay or cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(d) The sum due for the liability under this section may be collected by determination and collection in the manner provided in Chapter 5 (commencing with Section 38401) and Chapter 6 (commencing with Section 38501).

SEC. 20.5. It is the intent of the Legislature in enacting Sections 11 and 11.3 of this act, which amend Sections 110.1 and 532.3 of the

Revenue and Taxation Code, to clarify the application of these provisions to property which existed on the 1975 lien date, but escaped taxation entirely and was not identified and placed on the roll prior to June 30, 1980 (or June 30, 1981, in the case of counties over four million in population). In these cases, it is the intent of the Legislature that any of these properties which escaped taxation shall be placed on the current roll even though the property was not discovered until after the dates of June 30, 1980, and June 30, 1981.

SEC. 21. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 187

An act to add Sections 22476, 24476, and 26476 to the Financial Code, relating to loans.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 22476 is added to the Financial Code, to read:

22476. (a) A licensee may sell promissory notes evidencing the obligation to repay loans made by the licensee pursuant to this division to institutional investors and may make agreements with institutional investors for the collection of payments or the performance of services with respect to those notes.

(b) For the purposes of this section, "institutional investor" means the following:

(1) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or corporate or other instrumentality of any one or more of the foregoing.

(2) Any bank, trust company, savings bank or savings and loan association, credit union, industrial bank or industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurance company doing business under the authority of and in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(3) Trustees of pension, profit sharing, or welfare funds, if the pension, profit sharing, or welfare fund has a net worth of not less than fifteen million dollars ($15,000,000), except pension, profit sharing, or welfare funds of a licensee or its affiliate, self-employed individual retirement plans, or individual retirement accounts.

(4) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation; provided, however, that the 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 promissory note.

(5) Any syndication or other combination of any of the foregoing which is organized to purchase the promissory note.

SEC. 2. Section 24476 is added to the Financial Code, to read:

24476. (a) A licensee may sell promissory notes evidencing the obligation to repay loans made by the licensee pursuant to this division to institutional investors and may make agreements with institutional investors for the collection of payments or the performance of services with respect to those notes.

(b) For the purposes of this section, "institutional investor" means the following:

(1) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or corporate or other instrumentality of any one or more of the foregoing.

(2) Any bank, trust company, savings bank or savings and loan association, credit union, industrial bank or industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurance company doing business under the authority of and in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(3) Trustees of pension, profit sharing, or welfare funds, if the pension, profit sharing, or welfare fund has a net worth of not less than fifteen million dollars ($15,000,000), except pension, profit sharing, or welfare funds of a licensee or its affiliate self-employed individual retirement plans, or individual retirement accounts.

(4) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation; provided, however, that the 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 promissory note.

(5) Any syndication or other combination of any of the foregoing which is organized to purchase the promissory note.

SEC. 3. Section 26476 is added to the Financial Code, to read:

26476. (a) A licensee may sell promissory notes evidencing the

obligation to repay loans made by the licensee pursuant to this division to institutional investors and may make agreements with institutional investors for the collection of payments or the performance of services with respect to those notes.

(b) For the purposes of this section, "institutional investor" means the following:

(1) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or corporate or other instrumentality of any one or more of the foregoing.

(2) Any bank, trust company, savings bank or savings and loan association, credit union, industrial bank or industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurance company doing business under the authority of and in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(3) Trustees of pension, profit sharing, or welfare funds, if the pension, profit sharing, or welfare fund has a net worth of not less than fifteen million dollars ($15,000,000), except pension, profit sharing, or welfare funds of a licensee or its affiliate, self-employed individual retirement plans, or individual retirement accounts.

(4) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation; provided, however, that the 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 promissory note.

(5) Any syndication or other combination of any of the foregoing which is organized to purchase the promissory note.

SEC. 4. (a) Nothing in this act shall be construed to enhance or be in derogation of any rule or regulation adopted by the Commissioner of Corporations pursuant to the Corporate Securities Law of 1968 and in effect on January 1, 1986.

(b) Nothing in this act shall be construed to enhance or be in derogation of the Real Estate Law as contained in Division 4 (commencing with Section 10000) of the Business and Professions Code or of the regulations of the Real Estate Commissioner adopted pursuant thereto.

CHAPTER 188

An act to amend Section 25608 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 25608 of the Business and Professions Code is amended to read:

25608. Every person who possesses, consumes, sells, gives, or delivers to any other person, any alcoholic beverage in or on any public schoolhouse or any of the grounds thereof, is guilty of a misdemeanor. This section does not, however, make it unlawful for any person to acquire, possess, or use any alcoholic beverage in or on any public schoolhouse, or on any grounds thereof, if any of the following applies:

(a) The alcoholic beverage is acquired, possessed, or used in connection with a course of instruction given at the school and the person has been authorized to acquire, possess, or use it by the governing body or other administrative head of the school.

(b) The public schoolhouse is surplus school property and the grounds thereof are leased to a lessee which is a general law city with a population of less than 50,000, or the public schoolhouse is surplus school property and the grounds thereof are located in an unincorporated area and are leased to a lessee which is a civic organization, and the property is to be used for community center purposes and no public school education is to be conducted thereon by either the lessor or the lessee and the property is not being used by persons under the age of 21 years for recreational purposes at any time during which alcoholic beverages are being sold or consumed on the premises.

(c) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or operated veterans stadium with a capacity of over 12,000 people, located in a county with a population of over six million people. As used in this subdivision, "events" mean football games sponsored by a college, other than a public community college, or other events sponsored by noncollege groups.

Any person convicted of a violation of this section shall, in addition to the penalty imposed for the misdemeanor, be barred from having or receiving any privilege of the use of public school property which is accorded by Chapter 4 (commencing with Section 16551) of Division 12 of the Education Code.

CHAPTER 189

An act to amend Section 11165 of the Penal Code, relating to child abuse reporting.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(2) "Sexual exploitation" refers to any of the following:

(A) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any

person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or physicians who have examined the minor shall not constitute neglect.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; an employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social

worker or a probation officer, or any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(*l*) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 190

An act to amend Section 7363 of the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 7363 of the Fish and Game Code is amended to read:

7363. This article shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution 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 191

An act to amend Section 208 of the Penal Code, relating to crime.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985.]

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

SECTION 1. Section 208 of the Penal Code is amended to read:

208. Kidnapping is punishable by imprisonment in the state prison for three, five, or eight years.

SEC. 2. Section 208 of the Penal Code is amended to read:

208. Kidnapping is punishable by imprisonment in the state prison for three, five, or eight years. If the person kidnapped is under 14 years of age at the time of the commission of the crime, the kidnapping is punishable by imprisonment in the state prison for five, seven, or nine years.

SEC. 3. Section 2 of this bill incorporates amendments to Section 208 of the Penal Code proposed by both this bill and AB 606. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 208 of the Penal Code, and (3) this bill is enacted after AB 606, in which case Section 208 of the Penal Code, as amended by AB 606, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 192

An act to amend Section 7.9 of the Government Code, relating to state officers.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 7.9 of the Government Code is amended to read:

7.9. (a) Notwithstanding any provision of law to the contrary,

the Controller, the Treasurer, the Director of Finance, or the Superintendent of Public Instruction may designate any deputy of his or her office to act in his or her place and stead on any state board, commission, committee, or governing board of a state agency with respect to the exercise of statutory powers and duties of any of those bodies. The deputy, while sitting on a board, commission, committee, or governing board of a state agency may exercise the same powers that the Controller, the Treasurer, the Director of Finance, or the Superintendent of Public Instruction may exercise as if he or she were personally present. The Controller, the Treasurer, the Director of Finance, or the Superintendent of Public Instruction so designating a deputy shall be responsible for the acts of the deputy acting under the designation in the same manner and to the same extent that the Controller, the Treasurer, the Director of Finance, or the Superintendent of Public Instruction is responsible for the acts of the deputy performing his or her official duties as deputy to the Controller, the Treasurer, the Director of Finance, or the Superintendent of Public Instruction.

(b) At the request of the Controller or the Treasurer, two employees of each officer, who hold permanent civil service status and have been designated deputies under this section, shall be classified and compensated as career executives at category level IV or category level V.

(c) The Superintendent of Public Instruction may not appoint a person pursuant to subdivision (a) to act as a deputy for him or her at meetings of the State Board of Education, the Regents of the University of California, or the Trustees of the California State University.

CHAPTER 193

An act to add Sections 33214, 33215, and 33216 to the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 33214 is added to the Health and Safety Code, to read:

33214. Notwithstanding Section 33120, the territorial jurisdiction of an agency in the county shall include all of the unincorporated territory which was included in a project area selected pursuant to Section 33322 even if that territory is subsequently annexed to a city or included within the boundaries of a new city, unless territorial jurisdiction over the project area is transferred from a county to a city pursuant to Section 33215 or 33216.

SEC. 2. Section 33215 is added to the Health and Safety Code, to read:

33215. (a) If all of the territory included within a project area selected pursuant to Section 33322 is subsequently annexed to a city or included within the boundaries of a new city, the territorial jurisdiction of the agency of the county over all of the territory in that project area may be transferred from the agency of the county to the agency of the city pursuant to this section.

(b) A city may initiate the transfer of territorial jurisdiction described in subdivision (a) if the city council agrees to reimburse the county for all costs incurred by the county in conducting the transfer and adopts, or has adopted, both of the following ordinances:

(1) An ordinance pursuant to Section 33101 declaring the need for an agency to function in the city.

(2) An ordinance adopting the same redevelopment plan for the project area that was previously adopted by the board of supervisors or an ordinance adopting that redevelopment plan, with amendments. However, no amendment to a redevelopment plan may be adopted if the amendment would violate any agreement entered into by the agency of the county or the board of supervisors, as determined by the board of supervisors, prior to the effective date of the transfer of territorial jurisdiction, as determined pursuant to subdivision (c)

(c) The effective date of the transfer of territorial jurisdiction is the first day of the fiscal year which begins following the effective date of the later enacted of the ordinances adopted pursuant to subdivision (b).

(d) The transfer of territorial jurisdiction shall have all of the following effects on and after the effective date of the transfer of territorial jurisdiction, as determined pursuant to subdivision (c):

(1) The agency of the city and the city council shall have all of the rights, powers, and responsibilities provided by this part with respect to the project area and the redevelopment plan for that project area.

(2) The debts and any other obligations of the agency of the county or the board of supervisors in connection with the project area or the redevelopment plan for that project area shall be assumed by the agency of the city.

(3) For the purposes of this part, including Section 33670, the redevelopment plan for the project area for which territorial jurisdiction is transferred from the agency of the county to the agency of the city pursuant to this section shall be considered to have been adopted by the city council on the date the redevelopment plan was originally adopted by the board of supervisors.

(e) The agency of the county, the board of supervisors, the agency of the city, and the city council may enter into any agreements which those entities mutually determine to be necessary or desirable to facilitate the transfer of territorial jurisdiction provided for by this section.

SEC. 3. Section 33216 is added to the Health and Safety Code, to

read:

33216. (a) If all, or a substantial portion, of the territory included within a project area selected pursuant to Section 33322 is subsequently annexed to a city or included within the boundaries of a new city, the territorial jurisdiction of the agency of the county over all, or a substantial portion, of the territory in that project area may be transferred from the agency of the county to the agency of the city pursuant to this section.

(b) The transfer of territorial jurisdiction described in subdivision (a) is not effective unless all of the following occur:

(1) The agency of the county and the agency of the city enter into the agreement described in subdivision (c) and the city council and the board of supervisors both adopt a resolution approving that agreement.

(2) The city council adopts, or has adopted, both of the following ordinances:

(A) An ordinance pursuant to Section 33101 declaring the need for an agency to function in the city.

(B) An ordinance adopting the same redevelopment plan for the project area that was previously adopted by the board of supervisors.

(c) The agreement required to be entered into between the agency of the county and the agency of the city pursuant to paragraph (1) of subdivision (b) shall contain all of the provisions described in paragraphs (1), (2), (3), and (4) and may contain the provisions described in paragraphs (5) and (6):

(1) A provision specifying that all of the territory included within the project area is transferred from the agency of the county to the agency of the city, or a provision specifying the portions of the project area over which each agency will have territorial jurisdiction.

(2) (A) If all of the territory included within the project area is transferred from the agency of the county to the agency of the city, a provision providing for the allocation of all of the taxes payable from the project area pursuant to subdivision (b) of Section 33670 to the agency of the city.

(B) If a substantial portion of the territory included within the project area is transferred from the agency of the county to the agency of the city, a provision providing for the allocation of taxes payable from the project area pursuant to subdivision (b) of Section 33760 between the agency of the city and the agency of the county. That allocation of taxes shall be reasonably related to the costs the agency of the county and the agency of the city expect to incur in carrying out the redevelopment plan and the outstanding indebtedness the agency of the county has incurred in carrying out the redevelopment plan. That allocation of taxes may differ from the allocation that would have been made if the portion of the project area under the territorial jurisdiction of the county and the portion of the project area under the territorial jurisdiction of the city had been separate project areas at the time of adoption of the redevelopment plan by the board of supervisors.

(3) A requirement that all taxes payable from the project area pursuant to subdivision (b) of Section 33670 which are allocated to the agency of the city, as required by subparagraph (B) of paragraph (2), shall be available if necessary to pay any indebtedness incurred by the agency of the county prior to the effective date of the transfer of jurisdiction in connection with the project area and the redevelopment plan if that indebtedness was secured by the taxes payable from the project area pursuant to subdivision (b) of Section 33670.

(4) If a substantial portion of the territory included within the project area is transferred from the agency of the county to the agency of the city, a requirement that any amendment to the redevelopment plan for that portion of the territory of the project area under the jurisdiction of the county proposed by the agency of the county shall, in addition to any other requirements under this part, be approved by an ordinance adopted by the city council and that any amendment to the redevelopment plan for that portion of the territory of the project area under the jurisdiction of the city proposed by the agency of the city shall, in addition to any other requirements under this part, be approved by an ordinance adopted by the board of supervisors.

(5) If a substantial portion of the territory included within the project area is transferred from the agency of the county to the agency of the city, a provision permitting the agency of the county to undertake activities to implement the redevelopment plan in portions of the project area under the territorial jurisdiction of the agency of the city or for the agency of the city to undertake activities to implement the redevelopment plan in portions of the project area under the territorial jurisdiction of the county.

(6) Any other terms and conditions which the agency of the county, the board of supervisors, the agency of the city, or the city council mutually determine to be necessary or desirable to facilitate the transfer of territorial jurisdiction over all, or a substantial portion, of the project area and the implementation of the redevelopment plan.

(d) The effective date of the transfer of territorial jurisdiction is the first day of the fiscal year which begins following the effective date of the resolution adopted pursuant to paragraph (1) of subdivision (b) or the effective date of the later enacted of the ordinances adopted pursuant to paragraph (2) of subdivision (b), whichever date is later.

(e) On and after the effective date of the transfer of territorial jurisdiction:

(1) Except as otherwise provided by the agreement entered into pursuant to paragraph (1) of subdivision (b), the agency of the city and the city council shall have all of the rights, powers, and responsibilities provided by this part with respect to all, or the portion, of the project area for which the territorial jurisdiction has been transferred to the city and with respect to all, or the portion.

of the redevelopment plan for all, or that portion, of the project area.

(2) The debts and any other obligations of the agency of the county or the board of supervisors in connection with the project area, or a substantial portion of the project area transferred to the city, as the case may be, or the redevelopment plan for that project area, or portion of the project area, shall be assumed by the agency of the city.

(3) For the purposes of this part, including Section 33670, the redevelopment plan for all, or a substantial portion of, the project area for which territorial jurisdiction is transferred from the agency of the county to the agency of the city pursuant to this section shall be considered to have been adopted by the city council on the date the redevelopment plan was orginally adopted by the board of supervisors.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

CHAPTER 194

An act to add Chapter 9 (commencing with Section 19999.5) to Part 2.6 of Division 5 of Title 2 of the Government Code, relating to state employees.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Chapter 9 (commencing with Section 19999.5) is added to Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 9. TAX-DEFERRED SAVINGS PLANS

19999.5. In order to encourage savings and increase the savings options available to state employees, the department may establish and administer tax-deferred savings plans in accordance with Section 401 (k) of the Internal Revenue Code. The department may develop specifications and contract for the administration of the plans to the extent necessary to carry out this section. These plans shall be provided in addition to the retirement and deferred compensation programs currently authorized, shall offer the maximum flexibility available under current federal law, and may provide for employer as well as employee contributions.

CHAPTER 195

An act to amend Section 66484.3 of, and to add Section 50029 to, the Government Code, relating to bridges and roads, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 50029 is added to the Government Code, to read:

50029. The board of supervisors of the County of Orange or the city council of any city in that county may, by resolution, establish a fee program requiring the payment of a fee as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares pursuant to the procedures set forth in Section 66484.3.

SEC. 2. Section 66484.3 of the Government Code is amended to read:

66484.3. (a) The Board of Supervisors of the County of Orange and the city council of any city in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the circulation element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on general plan or local roads and in the case of major thoroughfares, to the provisions of the circulation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the circulation element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit. Bridges which are part of a major thoroughfare need not be separately identified in the transportation or flood control provisions of the general plan.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65905. In addition to the requirements of Section 65905, the notice shall contain preliminary information

related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the area of benefit is located. The resolution may subsequently be modified in any respect by the governing body. Modifications shall be adopted in the same manner as the original resolution. Any modification shall be subject to the protest procedures prescribed by paragraph (6) of this subdivision. The resolution may provide for automatic periodic adjustment of fees based upon the California Construction Cost Index prepared and published by the Department of Transportation, without further action of the governing body, including, but not limited to, public notice or hearing. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for any of the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing body shall make provision for payment of the share of improvement costs apportioned to those lands from other sources, but those sources need not be identified at the time of the adoption of the resolution.

(4) The ordinance provides that payment of fees shall not be required unless the major thoroughfares are in addition to, or a reconstruction or widening of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

(5) The ordinance provides that payment of fees shall not be required unless the planned bridge facility is an original bridge serving the area or an addition to any existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit. Fees imposed pursuant to this section shall not be expended to reimburse the cost of existing bridge facility construction, unless these costs are incurred in connection with the construction of an addition to an existing bridge for which fees may be required.

(6) The ordinance provides that if, within the time when protests

may be filed under its provisions, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of that to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section, unless the protests are overruled by an affirmative vote of four-fifths of the legislative body.

Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Any protests may be withdrawn in writing by the owner who filed the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement then all further proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the legislative body shall not be barred from commencing new proceedings not including any part of the improvement or acquisition so protested against. Nothing in this section shall prohibit the legislative body, within the one-year period, from commencing and carrying on new proceedings for the construction of a portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with that portion of the improvement or acquisition.

(c) Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the benefit area is one in which more than one bridge or major thoroughfare is required to be constructed, a fund may be so established covering all of the bridge or major thoroughfare projects in the benefit area. Moneys in the fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees comprising the fund were collected, or to reimburse the county or a city for the cost of constructing the improvement.

(d) An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

(e) The county or a city imposing fees pursuant to this section may advance money from its general fund or road fund to pay the cost of constructing the improvements and may reimburse the general fund or road fund from planned bridge facility or major thoroughfares funds established to finance the construction of the

improvements.

(f) The county or a city imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of bridge facilities or major thoroughfares. The sole security for repayment of the indebtedness shall be moneys in planned bridge facility or major thoroughfares funds.

(g) The term "construction," as used in this section, includes design, acquisition of right-of-way, administration of construction contracts, and actual construction.

(h) Nothing in this section shall be construed to preclude the County of Orange or any city within that county from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

(i) Any city within the County of Orange may require the payment of fees in accordance with this section as to any property in an area of benefit within the city's boundaries, for facilities shown on its general plan or the county's general plan, whether the facilities are situated within or outside the boundaries of the city, and the county may expend fees for facilities or portions thereof located within cities in the county.

(j) The validity of any fee required pursuant to this section shall not be contested in any action or proceeding unless commenced within 60 days after recordation of the resolution described in paragraph (3) of subdivision (b). The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding. This subdivision shall also apply to modifications of fee programs.

SEC. 3. The Legislature finds and declares that unique circumstances which exist in the County of Orange dictate the necessity of providing an alternative procedure for that county and the cities within that county, as set forth in Section 1 of this act, and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 4. The Legislature finds and declares that the provisions of Section 1 of this act are declaratory of existing law.

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 that the County of Orange and cities within that county may implement plans for the construction of needed bridges and thoroughfares within developing areas without undue delay, it is essential that this act go into effect immediately.

CHAPTER 196

An act to amend Section 1719 of the Civil Code, relating to commercial paper.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 1719 of the Civil Code is amended to read:

1719. Notwithstanding any penal sanctions which may apply, any person who makes, utters, draws, or delivers any check, or draft, or order upon any bank or depository, or person, or firm, or corporation, for the payment of money, which refuses to honor the same for lack of funds or credit to pay, or because the maker has no account with the drawee, and who fails to pay the same amount in cash to the payee within 30 days following a written demand therefor mailed to the maker by certified mail, shall be liable to the payee, in addition to the amount owing upon that check or draft or order, for damages of treble the amount so owing, but in no case less than one hundred dollars ($100), and in no case more than five hundred dollars ($500), plus the costs of mailing the written demand for payment.

A cause of action under this section may be brought in small claims court, if it does not exceed the jurisdiction of that court, or in any other appropriate court.

CHAPTER 197

An act to amend Sections 2484 and 2499.5 of, and to add Section 2471 to, the Business and Professions Code, relating to podiatry, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 2471 is added to the Business and Professions Code, to read:

2471. (a) The committee may select and contract with necessary podiatric medical consultants who are licensed doctors of podiatric medicine to assist it in its enforcement program on an intermittent basis. Notwithstanding any other provision of law, the committee may contract with these consultants on a sole source basis.

(b) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any consultant under

contract with the committee shall be considered a public employee.

SEC. 2. Section 2484 of the Business and Professions Code is amended to read:

2484. On and after January 1, 1983, in addition to any other requirements of this chapter, before a certificate to practice podiatric medicine may be issued, each applicant shall show by evidence satisfactory to the committee that he or she has satisfactorily completed one year of approved postgraduate podiatric surgical training in a general acute care facility. If an approved postgraduate podiatric surgical training residency was not available nationally for the applicant, a one-year preceptorship approved by the committee may be substituted until January 1, 1987, and it is the intent of the Legislature that this date not be extended beyond January 1, 1987.

SEC. 3. Section 2499.5 of the Business and Professions Code is amended to read:

2499.5. The following fees apply to certificates to practice podiatric medicine. The amount of fees prescribed for doctors of podiatric medicine shall be those set forth in this section unless a lower fee is fixed by the committee in accordance with Section 2499.6.

(a) Each applicant for a certificate by written examination, unless otherwise provided by this chapter, shall pay an application fee fixed by the committee at an amount of one hundred fifty dollars ($150). If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the committee 30 days prior to the examination date, the sum of twenty dollars ($20) shall be retained and the remainder of the fee is returnable to the applicant. The committee may fix a reexamination fee not to exceed one hundred twenty dollars ($120).

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a certificate based upon reciprocity shall pay an application fee of twenty dollars ($20) at the time the application is filed. The oral examination fee shall be two hundred fifty dollars ($250), or the actual cost, whichever is lower, and shall be paid by each applicant required to take the examination under Section 2486. If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the committee 30 days prior to the examination date, only the examination fee is returnable to the applicant. The committee may charge an examination fee for any subsequent reexamination of the applicant. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the committee at an amount not to exceed one hundred dollars ($100) nor less than five dollars ($5) for the issuance of the certificate.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee. The initial license fee shall be five hundred twenty-five dollars ($525) until June 30, 1987. Effective July

1, 1987, the initial license fee shall not exceed four hundred fifty dollars ($450). If the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the initial license fee fixed by the committee. The committee may waive or refund the initial license fee where the license will expire within 45 days after it is issued.

(d) The biennial renewal fee shall be five hundred twenty-five dollars ($525) until June 30, 1987. Effective July 1, 1987, the biennial renewal fee shall not exceed four hundred fifty dollars($450). Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(e) The delinquency fee is twenty-five dollars ($25).

(f) The duplicate wall certificate fee is an amount equal to the cost to the committee for the issuance of the duplicate certificate.

(g) The duplicate renewal receipt fee is twenty dollars ($20).

(h) The endorsement fee is twenty dollars ($20).

(i) The letter of good standing fee is ten dollars ($10).

(j) There shall be a fee of twenty-five dollars ($25) for the issuance of a limited license under Section 2475.

(k) The fee for certification under Section 2473 shall be fixed by the committee at an amount of two hundred fifty dollars ($250).

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:

Because of the status of the Podiatry Fund balance and the need to have adequate funds to accomplish the mission of the committee, it is necessary that this act take effect immediately.

CHAPTER 198

An act to amend Sections 12540, 13200, 13201, and 13205 of the Business and Professions Code, relating to devices.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 12540 of the Business and Professions Code is amended to read:

12540. The director may issue rules and regulations necessary for the administration and enforcement of this chapter and for the purpose of assuring the accuracy of commercial weighing and measuring devices. These regulations may include, but are not limited to, establishing the responsibilities of device repairmen and users of commercial devices with respect to their accuracy.

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

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

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

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

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

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

CHAPTER 199

An act to amend Sections 18045.5, 18045.6, 18052, 18062.2, and 18075.5 of, and to add Section 18075.6 to, the Health and Safety Code, relating to mobilehomes.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 18045.5 of the Health and Safety Code is amended to read:

18045.5. (a) The department shall not issue a manufacturer, distributor, or dealer license to any applicant therefor who does not have an established place of business.

(b) The established place of business shall have an office and, in the case of a dealer or manufacturer, shall have a display or manufacturing area defined by department regulations situated on the same property where the business peculiar to the type of license issued by the department is, or may be, transacted. When a room or rooms in a hotel, roominghouse, apartment house building, or a part of any single-unit or multiple-unit dwelling house is used as an office or offices of an established place of business, the room or rooms shall be devoted exclusively to, and occupied for, the office or offices of the licensee, shall be located on the ground floor, and shall provide a direct entrance into the room or rooms from the exterior of the building.

(c) The established place of business shall be open for inspection

of the premises, pertinent records, and manufactured homes. mobilehomes, or commercial coaches by any department representative during business hours.

SEC. 2. Section 18045.6 of the Health and Safety Code is amended to read:

18045.6. (a) (1) If the manufacturer, distributor, or dealer changes the site or location of his or her established place of business, the manufacturer, distributor, or dealer shall immediately, upon making the change, notify the department. If a manufacturer, distributor, or dealer for any reason whatsoever, ceases to be in possession of an established place of business from and on which he or she conducts the business for which the manufacturer, distributor, or dealer is licensed, he or she shall immediately notify the department and, upon demand by the department, shall deliver to the department the manufacturer's, distributor's, or dealer's license and all relevant records in his or her possession.

(2) The department may place a manufacturer, distributor, or dealer license on an inactive status upon application of the licensee. An inactive license shall remain valid for six months or for the remaining term of the original license, whichever is less.

(b) If the dealer changes to or adds another franchise for the sale of new manufactured homes, mobilehomes, or commercial coaches, or cancels, or, for any cause whatever, otherwise loses a franchise for the sale of new manufactured homes, mobilehomes, or commercial coaches, he or she shall immediately so notify the department.

(c) A dealer's established place of business shall have posted in a place conspicuous to the public the license issued by the department to the dealer and to each salesperson employed by the dealer.

(d) Notwithstanding Section 18050 and this section, a dealer may display manufactured homes, mobilehomes, or commercial coaches at a fair, exposition, or similar exhibit for no more than 30 days upon receipt of a branch license. As used in this section, "mobilehome fair or exposition" means a display of manufactured homes, mobilehomes, or commercial coaches not limited to one dealer, except in a mobilehome park.

Manufactured homes or mobilehomes, installed pursuant to Section 18613, may also be displayed and sold within a mobilehome park or mobilehome subdivision upon receipt of a branch license.

(e) The display area required by subdivision (b) of Section 18045.5, shall not apply to any dealers' secondary locations located outside of mobilehome parks or subdivisions selling only used manufactured homes, mobilehomes, and commercial coaches.

(f) All manufactured homes, mobilehomes, or commercial coaches displayed pursuant to subdivision (d) or (e) shall be identified by a sign or device providing information relating to the dealer's name and the location and address of the dealer's established place of business and any other information that is required by the department.

(g) The display area and office required by subdivision (b) of

Section 18045.5 shall not apply to a location licensed as a branch pursuant to this part.

SEC. 3. Section 18052 of the Health and Safety Code is amended to read:

18052. (a) Pending the satisfaction of the department that the applicant meets the requirements under this article, it may issue a temporary permit to any person applying for a license for a period not to exceed 120 days while the department is completing its investigation and determination of all facts relative to the qualifications of the applicant to the license. The department may cancel a temporary permit when it determines or has reasonable cause to believe that the application is incorrect, fraudulent, or incomplete, or that the temporary permit was issued in error. The temporary permit shall be invalid immediately when canceled by the department or when the applicant's license has been issued or refused.

(b) Upon refusal of the department to issue a license to an applicant, the applicant may demand, in writing, a hearing before the director or his or her representative within 60 days after notice of refusal and receipt of a statement of issues.

SEC. 4. Section 18062.2 of the Health and Safety Code is amended to read:

18062.2. It is also unlawful for a dealer to do any of the following:

(a) Engage in the business for which the dealer is licensed without at all times maintaining an established place of business.

(b) Employ any person as a salesperson who is not licensed pursuant to this part, or whose license is not displayed on the premises of the dealer as provided in Section 18063.

(c) Permit the use of his or her dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of manufactured homes, mobilehomes, or commercial coaches, or to permit the use of the dealer's license, supplies, or books to operate a branch or secondary location to be used by any other person, if, in either situation, the licensee has no financial or equitable interest or investment in the manufactured homes, mobilehomes, or commercial coaches sold by, or the business of, or branch or secondary location used by, the person, or has no such interest or investment other than commissions, compensations, fees, or any other thing of value received for the use of the dealer's license, supplies, or books to engage in the sale of manufactured homes, mobilehomes, or commercial coaches.

(d) Advertise any specific manufactured home, mobilehome, or commercial coach for sale without identifying the manufactured home, mobilehome, or commercial coach by its serial number.

(e) Advertise the total price of a manufactured home, mobilehome, or commercial coach without including all costs to the purchaser at time of delivery at the dealer's premises, except sales tax, title and registration fees, finance charges, and any dealer documentary preparation charge. The dealer documentary

preparation charge shall not exceed twenty dollars ($20).

(f) Exclude from the advertisement of a manufactured home, mobilehome, or commercial coach for sale information to the effect that there will be added to the advertised total price at the time of sale, charges for sales tax, title and registration fees, escrow fees, and any dealer documentary preparation charge.

(g) Represent the dealer documentary preparation charge as a governmental fee.

(h) Refuse to sell the manufactured home, mobilehome, or commercial coach to any person at the advertised total price for that manufactured home, mobilehome, or commercial coach, exclusive of sales tax, title fee, finance charges, and dealer documentary preparation charge, which charge shall not exceed twenty dollars ($20), while it remains unsold, unless the advertisement states the advertised total price is good only for a specified time and that time has elapsed.

(i) Not post the salesperson's license in a place conspicuous to the public on the premises where they are actually engaged in the selling of manufactured homes, mobilehomes, and commercial coaches for the employing dealer. The license shall be displayed continuously during their employment. If a salesperson's employment is terminated, the dealer shall return the license to the salesperson.

(j) Offer for sale, rent, or lease within this state a new manufactured home, mobilehome, or commercial coach whose manufacturer is not licensed under this part.

SEC. 5. Section 18075.5 of the Health and Safety Code is amended to read:

18075.5. Manufactured homes, mobilehomes, and commercial coaches sold or used within this state shall be subject to annual registration with the department except as follows:

(a) Manufactured homes and mobilehomes subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code, and not installed on foundation systems pursuant to Section 18551, shall be subject to registration only at the time of sale, resale, or transfer of title.

(b) Manufactured homes, mobilehomes, and commercial coaches installed or to be installed on foundation systems pursuant to Section 18551 shall be exempt from registration so long as they remain affixed to the foundation system. In the event that the manufactured home, mobilehome, or commercial coach, is removed from a foundation system for any purpose other than dismantling or reinstallation on a foundation system, it shall be immediately subject to registration with the department.

(c) A nonresident owner of a foreign manufactured home or mobilehome otherwise subject to registration under this code may, subject to exceptions and special provisions contained in this chapter, occupy or permit occupancy of the manufactured home or mobilehome within this state without registering the manufactured

home or mobilehome in, or paying any fees to, this state, subject to the condition that the manufactured home or mobilehome at all times, when occupied in this state, is duly registered in the place of residence of the owner and displays on the manufactured home or mobilehome a valid registration issued for that manufactured home or mobilehome in the place of residence of the owner.

For the purposes of the exceptions and special provisions of this part, a registration issued by any foreign jurisdiction shall be deemed to be valid for not more than one year from the date of initial use in this state.

(d) Any nonresident owner of a foreign manufactured home or mobilehome who is a member of the armed forces of the United States on active duty within this state shall be entitled to the exemption granted under subdivision (c) under the conditions set forth therein. Any member of the armed forces, whether a resident or nonresident, shall also be entitled to exemption from registration with respect to a manufactured home or mobilehome owned by the person upon which there is displayed a valid registration issued for the manufactured home or mobilehome in a foreign jurisdiction where the owner was regularly assigned and stationed for duty by competent military orders at the time the registration was issued. Competent military orders shall not include military orders for leave, for temporary duty, nor for any other assignment of any nature requiring the owner's presence outside the foreign jurisdiction where the owner was regularly assigned and stationed for duty.

(e) Any nonresident owner of a manufactured home or mobilehome of a type subject to registration in this state who, while temporarily living within this state, accepts gainful employment within this state shall be entitled to the exemption granted under subdivision (c), but only until the expiration of the valid home state registration on the manufactured home or mobilehome which was in effect at the time the nonresident accepted gainful employment within this state.

(f) Any nonresident owner of a manufactured home or mobilehome of a type subject to registration under this part who becomes a legal resident of this state shall be entitled to the exemption granted under subdivision (c), but only until the expiration of the valid home state registration on the manufactured home or mobilehome which was in effect at the time the owner became a resident of this state.

(g) Any person who enters California for the purpose of establishing or reestablishing residence or accepting gainful employment following his or her discharge from the armed forces of this country may occupy a manufactured home or mobilehome owned by that person at the time of his or her discharge and registered to him or her in a foreign jurisdiction where his or her military orders required his or her presence without registering the manufactured home or mobilehome in this state until the expiration of the registration period current at the time of his or her discharge

and entrance into California.

(h) Any new and previously unregistered, unoccupied manufactured home, mobilehome, or commercial coach which is part of an inventory held for sale by a manufacturer or dealer in the course of business.

The department may adopt regulations for exempting additional classes of manufactured homes, mobilehomes, and commercial coaches from registration under a temporary or one-trip permit system which permits the lawful transportation and use of manufactured homes, mobilehomes, and commercial coaches not otherwise subject to registration.

SEC. 6. Section 18075.6 is added to the Health and Safety Code, to read:

18075.6. Unless installed on a foundation system pursuant to Section 18551, any manufactured home, mobilehome, or commercial coach used as an office at a manufacturer's, distributor's, or dealer's established place of business is subject to registration by the department.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 200

An act to amend Sections 408, 408.2, 481, 19052, and 26072 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 408 of the Revenue and Taxation Code is amended to read:

408. (a) Except as otherwise provided in subdivisions (b) and (c), any information and records in the assessor's office which are not required by law to be kept or prepared by the assessor, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county and shall provide any market

data in his or her possession to an assessee of property or his or her designated representative upon request. The assessor shall permit an assessee of property or his or her designated representative to inspect at the assessor's office any information and records, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of his or her property. Except as provided in Section 408.1, an assessee or his or her designated representative, however, shall not be provided or permitted to inspect information and records, other than market data, which also relate to the property or business affairs of another person, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of his or her assessment.

(c) The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, inheritance tax referees, employees of the Franchise Tax Board for tax administration purposes only, staff appraisers of the Department of Transportation, the State Board of Equalization, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office to staff appraisers of the Department of Transportation pursuant to this section, the department shall reimburse the assessor for any costs incurred as a result thereof.

(d) For purposes of this section, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise, but for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

SEC. 2. Section 408.2 of the Revenue and Taxation Code is amended to read:

408.2. (a) Except as otherwise provided in Sections 451 and 481 of this code and in Section 6254 of the Government Code, any information and records in the assessor's office which are required by law to be kept or prepared by the assessor, other than homeowners' exemption claims, are public records and shall be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall

maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county and shall provide any market data in his or her possession to an assessee of property or his or her designated representative upon request. The assessor shall permit an assessee of property or his or her designated representative to inspect at the assessor's office any information and records, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of his or her property. Except as provided in Section 408.1, an assessee or his or her designated representative, however, shall not be provided or permitted to inspect information and records, other than market data, which also relate to the property or business affairs of another person, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of his or her assessment.

(c) The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, probate referees, employees of the Franchise Tax Board for tax administration purposes only, the State Board of Equalization, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records.

(d) For purposes of this section, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise, but for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

(e) This section shall apply only to a county with a population which exceeds 4,000,000.

SEC. 3. Section 481 of the Revenue and Taxation Code is amended to read:

481. All information requested by the assessor or the board pursuant to this article or furnished in the change in ownership statement shall be held secret by the assessor and the board. All information furnished in either the preliminary change in ownership statement or the change in ownership statement shall be held secret

by those authorized by law to receive or have access to this information. These statements are not public documents and are not open to inspection, except as provided in Section 408.

SEC. 4. Section 19052 of the Revenue and Taxation Code is amended to read:

19052. (a) Except as provided in subdivision (b), if the Franchise Tax Board determines that the taxpayer paid an amount not required to be paid under this part, the Franchise Tax Board without obtaining the approval of the State Board of Control, shall set forth that fact in its records and may either credit the amount on any amounts then due and payable under this part from the taxpayer by whom the amount was paid or refund the amount or the balance to the taxpayer or his or her successors, administrators, or executors.

(b) No refund exceeding fifty thousand dollars ($50,000) shall be allowed or made until approved by the State Board of Control. Notwithstanding the preceding sentence, State Board of Control approval shall not be required with respect to a refund resulting either from withholding, or the payment of estimated tax, or prepayment of taxes during and for the taxable year.

SEC. 5. Section 26072 of the Revenue and Taxation Code is amended to read:

26072. (a) Except as provided in subdivision (b), if the Franchise Tax Board determines that the taxpayer paid an amount not required to be paid under this part, the Franchise Tax Board without obtaining the approval of the State Board of Control, shall set forth that fact in its records and may either credit the amount on any amounts then due and payable under this part from the taxpayer by whom the amount was paid or refund the amount or the balance to the taxpayer or its successors.

(b) No refund exceeding fifty thousand dollars ($50,000) shall be allowed or made until approved by the State Board of Control. Notwithstanding the preceding sentence, State Board of Control approval shall not be required with respect to a refund resulting from the payment of estimated tax or a rate determination pursuant to Section 23186.1 (relating to bank and financial corporation rates).

SEC. 6. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 201

An act to amend Section 537 of the Penal Code, relating to crimes.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 537 of the Penal Code is amended to read:

537. (a) Any person who obtains any food, fuel, services, or accommodations at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, ski area, or public or private campground, without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, or public or private campground by the use of any false pretense, or who, after obtaining credit, food, fuel, services, or accommodations, at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, or public or private campground, absconds, or surreptitiously, or by force, menace, or threats, removes any part of his or her baggage therefrom with the intent not to pay for his or her food or accommodations is guilty of a public offense punishable as follows:

(1) If the value of the credit, food, fuel, services, or accommodations is four hundred dollars ($400) or less, by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for a term not exceeding six months, or both.

(2) If the value of the credit, food, fuel, services, or accommodations is greater than four hundred dollars ($400), by imprisonment in the county jail for a term of not more than one year, or in the state prison.

(b) Any person who uses or attempts to use ski area facilities for which payment is required without paying as required, or who resells a ski lift ticket to another when the resale is not authorized by the proprietor, is guilty of an infraction.

(c) Evidence that a person left the premises of such an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, ski area, or public or private campground, without paying or offering to pay for such food, fuel, services, use of facilities, or accommodation, or that the person, without authorization from the proprietor, resold his or her ski lift ticket to another person after making use of such facilities, shall be prima facie evidence of the following:

(1) That the person obtained such food, fuel, services, use of facilities or accommodations with intent to defraud the proprietor or manager.

(2) That, if, after obtaining the credit, food, fuel, services, or accommodations, the person absconded, or surreptitiously, or by force, menace, or threats, removed part of his or her baggage therefrom, the person did so with the intent not to pay for the credit, food, fuel, services, or accommodations.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 202

An act to amend Sections 207 and 215 of the Fish and Game Code, relating to the Fish and Game Commission.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 207 of the Fish and Game Code is amended to read:

207. The October, December and March meetings shall be in the first 10 days of the month. The April meeting shall be in the last 10 days of the month. The June meeting shall be held on the last Friday of the month. The commission shall determine and announce the date set for the respective meetings at least 60 days in advance of the meeting.

In even-numbered years the October and March meetings shall be held in Sacramento, the fishing proposals meetings in Redding or in Red Bluff, as selected by the commission, the hunting proposals meeting in San Diego, and the December and April meetings in Los Angeles or in Long Beach, as selected by the commission. In odd-numbered years the October and March meetings shall be in Los Angeles or in Long Beach, as selected by the commission, the December and April meetings in Sacramento, the fishing proposals meeting in San Diego and the hunting proposals meeting in Redding or in Red Bluff, as selected by the commission.

All Sacramento and Los Angeles meetings specified in this section shall be held in state buildings.

SEC. 2. Section 215 of the Fish and Game Code is amended to read:

215. Every regulation of the commission made pursuant to this article shall be filed with the Secretary of State, and shall become effective at the time specified therein, but not sooner than the date of the filing.

CHAPTER 203

An act to amend Section 4340 of the Fish and Game Code, relating to deer.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 4340 of the Fish and Game Code is amended to read:

4340. (a) Any person who is convicted of a violation of any provision of this code, or of any rule, regulation, or order made or adopted under this code, relating to deer shall forfeit his or her deer license tags, and no new deer license tags may be issued to that person during the then current license year for hunting licenses.

(b) No person described in subdivision (a) may apply for deer license tags for the following license year.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 204

An act to amend Section 42311 of the Health and Safety Code, relating to air pollution.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. 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 this division 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 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, 1986, 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 does not apply to the south coast district board which is 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, 1986, unless a later enacted statute deletes or extends this date.

(g) In addition to any other fees authorized by this section, a district board may adopt, by regulation, a schedule of annual fees to be assessed against permitted nonvehicular sources emitting toxic air

contaminants identified pursuant to the procedure set forth in Sections 39660, 39661, and 39662. A district board shall demonstrate that the fees assessed under this subdivision do not exceed the reasonable, anticipated costs of funding district activities mandated by Section 39666 related to nonvehicular source emissions. In making the demonstration, the district shall account for all direct and indirect costs of district activities related to each toxic air contaminant. If the district does not make this demonstration, it shall make reimbursement for that portion of the fee not determined to be reasonable.

CHAPTER 205

An act to amend Sections 51350 and 51360 of the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1985. Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 51350 of the Health and Safety Code is amended to read:

51350. (a) The agency may from time to time, after action of the Housing Bond Credit Committee as provided in Section 51360, issue its bonds in the principal amount which the agency determines necessary to provide sufficient funds for financing housing developments and other residential structures and for the payment of interest on bonds of the agency, establishment of reserves to secure the bonds, and other expenditures of the agency incident to, and necessary or convenient to, issuance of the bonds.

(b) Sale of the bonds of the agency shall be coordinated by the Treasurer. To obtain a date for the sale of bonds, the agency shall inform the Treasurer of the amount of the proposed issue. Upon that notification, the Treasurer shall provide three 10-day periods, within the 90 days next following, when the bonds can be sold. The agency may choose any date during the suggested periods or any other date to which the agency and the Treasurer have mutually agreed. The Treasurer shall sell the bonds on the date chosen according to terms approved by the agency.

The Housing Bond Credit Committee shall exercise its powers with due regard for the right of the holders of bonds of the agency at any time outstanding, and nothing in, or done pursuant to, this section shall in any way limit, restrict, or alter the obligation or powers of the agency or any member, officer, or representative of the agency or the Treasurer to carry out and perform in every detail each and every convenant, agreement, or contract at any time made

or entered into on behalf of the agency with respect to its bonds or its benefits, or the security of the holders of the bonds.

(c) Except as provided in subdivisions (d), (e), (f), and (g), the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall not exceed seven hundred fifty million dollars ($750,000,000), exclusive of the principal indebtedness of bonds issued to refund or renew previously issued bonds of the agency, to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the bonds, during the period in which both the previously issued bonds and the refunding or renewal bonds are outstanding.

(d) Effective January 1, 1980, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be increased by seven hundred fifty million dollars ($750,000,000), exclusive of (1) bonds previously authorized pursuant to subdivision (c), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(e) Effective January 1, 1983, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be additionally increased by three hundred fifty million dollars ($350,000,000) exclusive of (1) bonds previously authorized pursuant to subdivision (c) or (d), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(f) Effective January 1, 1984, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be additionally increased by five hundred million dollars ($500,000,000) exclusive of (1) bonds previously authorized pursuant to subdivision (c), (d), or (e), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

(g) Effective upon the effective date of the amendments to this

section amended by the Statutes of 1985, the aggregate principal amount of bonds which may be outstanding at any time pursuant to this part shall be additionally increased by six hundred million dollars ($600,000,000) exclusive of (1) bonds previously authorized pursuant to subdivision (c), (d), (e), or (f), and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of the redemption of the bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

SEC. 2. Section 51360 of the Health and Safety Code is amended to read:

51360. (a) There is hereby created a Housing Bond Credit Committee composed of the Governor, the State Controller, the State Treasurer, the Director of Finance, and the executive director of the agency. The State Treasurer shall be the chairperson of the committee. The members of the committee shall serve on the committee without compensation. A majority of the members may act for the committee. Prior to the issuance of any bonds, the board shall submit to the committee a statement of the purpose for which the bonds are proposed to be issued and the amount of the proposed issuance. The committee shall determine the general adequacy of the program's security in protecting the state's credit. If the committee finds the state's credit would be subject to an undue risk, it may disapprove the proposed issuance or reduce the amount of the proposed issuance.

(b) The committee chairperson shall appoint a financial adviser who shall aid the committee in the performance of its duties under this chapter, perform independent financial research and assessment, provide liaison between the committee and the agency, and perform any other duties as may be required by the committee.

The agency shall reimburse the committee for any compensation paid by the committee to the financial adviser.

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

The California Housing Finance Agency needs an authorization to issue additional bonds to finance housing developments. In order to provide that authority as soon as possible, this bill must take effect immediately.

CHAPTER 206

An act to amend Section 42005 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985.]

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

SECTION 1. Section 42005 of the Vehicle Code is amended to read:

42005. (a) In lieu of adjudicating a traffic offense, and with this consent of the defendant, the court may order any person issued a notice to appear for a traffic violation to attend a school for traffic violators licensed pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5 or a driving school licensed pursuant to Chapter 1 (commencing with Section 11100) of Division 5 for instruction in the operation of a motor vehicle consistent with the provisions of this code. Except as otherwise provided in subdivision (b), any person so ordered may choose the school for traffic violators or licensed driving school the person will attend. Any person who willfully fails to comply with the order is guilty of a misdemeanor.

(b) In those counties where prior to January 1, 1985, one or more individual courts, or the county acting on behalf of one or more individual courts, contracted for the provision of instructional services to traffic violators referred by the court pursuant to a pretrial diversion program, the courts may restrict referrals under this section to those schools for traffic violators or licensed driving schools which are under contract with the court or with the county to provide instructional services for persons referred pursuant to subdivision (a). Counties subject to this subdivision or individual courts within the county may contract with an independent administrator to administer contracts with schools for traffic violators and licensed driving schools to provide instruction for persons referred pursuant to this section.

A county described in Section 28023 of the Government Code may continue to provide the program authorized by this section in accordance with the provisions of current and future contracts as may be amended and approved by the individual courts within that county and the county shall be exempt from state regulations relative to maximum classroom attendance.

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 revised instructional services to traffic violators authorized by this act may become operative by the start of the

1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 207

An act to amend Section 21300 of the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 21300 of the Government Code is amended to read:

21300. If, prior to attaining the minimum age for voluntary retirement for service applicable to members of his or her class, a recipient of a disability retirement allowance other than one for industrial disability engages in a gainful occupation not in state service, the board shall reduce his or her monthly disability retirement pension to an amount which, when added to the compensation earned monthly by him or her, shall not exceed the amount of the maximum compensation earnable by a person holding the position which he or she held at the time of his retirement, or if that position has been abolished, the maximum compensation earnable by a person holding it immediately prior to its abolition.

If his or her earnings are further altered, the board may further alter his or her disability retirement pension to the lower of the following amounts:

(a) The amount of the disability retirement pension upon which he or she was originally retired.

(b) An amount which, when added to the compensation earned by him or her shall equal the amount of the maximum compensation earnable by a person holding the position which he held at the time of his or her retirement, or, if that position has been abolished, the maximum compensation earnable by a person holding it immediately prior to its abolition.

The recipient of a disability allowance shall furnish earnings information as requested by the board to administer this section. If the recipient fails to furnish requested information, the disability retirement pension shall be discontinued until such time as the requested information is furnished. If the requested information is furnished, the disability retirement pension shall be reinstated.

When he or she reaches the minimum age for voluntary retirement for service applicable to members of his or her class 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.

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 an effective remedy may be implemented at the earliest possible time with regard to recipents of ordinary disability retirement allowances from the Public Employees' Retirement System who engage in gainful occupation but fail to provide earnings information to the system, it is necessary that this act take effect immediately.

CHAPTER 208

An act to amend Sections 18520, 18521, and 18522 of the Revenue and Taxation Code, relating to conservation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 18520 of the Revenue and Taxation Code is amended to read:

18520. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

(b) The contribution shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation under subdivision (a) shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. If payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the tax liability, if any, shown thereon, the return shall be treated as though no designation had been made. If no designee is specified, the contribution shall, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article, be transferred to the General Fund. The taxpayer shall be notified in cases where the discrepancy between the amount actually available for designation and the amount designated exceeds ten dollars ($10).

(d) If a taxpayer designates a contribution to more than one account, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the

designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the form of the return to include a space labeled "Rare and Endangered Species Preservation Program" to allow for the designation permitted under subdivision (a).

SEC. 2. Section 18521 of the Revenue and Taxation Code is amended to read:

18521. (a) The Franchise Tax Board shall determine annually the total amount designated and available pursuant to this article and notify the Controller of that amount.

(b) The Controller shall transfer that amount, less the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article, to the Fish and Game Preservation Fund to be credited by the Department of Fish and Game to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account. Notwithstanding Section 13340 of the Government Code, all money transferred to the Fish and Game Preservation Fund, under this article, is hereby continuously appropriated to the Department of Fish and Game for the purposes specified in Section 1771 of the Fish and Game Code, and is subject to review by the budget committees of the Legislature.

SEC. 3. Section 18522 of the Revenue and Taxation Code is amended to read:

18522. It is the intent of the Legislature that this article create an additional funding for programs for endangered and rare animals and native plant species and shall be used to supplement, not supplant, other funding sources for these programs.

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 allow the Controller to transfer funds to the current year appropriation of the Department of Fish and Game and to clarify the use of those funds in accordance with the intent of the Legislature, it is necessary that this act take effect immediately.

CHAPTER 209

An act to amend Sections 18930 and 18938 of the Health and Safety Code, relating to building standards.

[Approved by Governor July 9, 1985 Filed with Secretary of State July 10, 1985]

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

SECTION 1. Section 18930 of the Health and Safety Code is amended to read:

18930. (a) Any building standard adopted by state agencies shall be submitted to and approved by the State Building Standards Commission prior to codification. Prior to submission to the commission, building standards which are adopted by state agencies shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency which shall, to the satisfaction of the commission, justify the approval of the building standards in terms of the following criteria:

(1) The proposed building standard does not conflict with, overlap, or duplicate other building standards.

(2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.

(3) The public interest requires the adoption of the building standards.

(4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.

(5) The cost to the public is reasonable based on the overall benefit to be derived from such building standards.

(6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.

(7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.

(8) The format of the proposed building standards is consistent with that adopted by the commission.

(9) The proposed building standard, if intended to promote fire and panic safety, has the written approval of the State Fire Marshal.

(b) In reviewing building standards submitted for its approval, the commission shall consider only the following:

(1) Except as provided in subdivision (b) of Section 11342.3 of the Government Code, the record of the proceedings of the adopting agency.

(2) The evidence submitted to and considered by the adopting agency.

(c) The commission shall give great weight to the determinations and analysis of the adopting agency on each of the criteria for approval set forth in subdivision (a). Any factual determinations of the adopting agency shall be considered conclusive by the commission unless the commission specifically finds, and sets forth its reasoning in writing, that such factual determination is arbitrary and capricious or substantially unsupported by the evidence considered by the adopting agency.

Whenever the commission makes such a finding, it shall return the standard to the adopting agency for a reexamination of its original determination of the disputed fact.

(d) Whenever a building standard is principally intended to protect the public health and safety, its adoption shall not be a "factual determination" for purposes of subdivision (c). Whenever a building standard is principally intended to conserve energy or other natural resources, the commission shall consider or review the cost to the public or benefit to be derived as a "factual determination" pursuant to subdivision (c). Whenever a building standard is intended to promote fire and panic safety, the commission shall, unless adopted by the State Fire Marshal, submit the building standard to the State Fire Marshal for prior approval.

(e) Whenever the commission finds, pursuant to paragraph (2) of subdivision (a) that a building standard is adopted by an adopting agency pursuant to statutes requiring adoption of such building standard, the commission shall not consider or review whether such adoption is in the public interest pursuant to paragraph (3) of subdivision (a).

SEC. 2. Section 18938 of the Health and Safety Code is amended to read:

18938. (a) Building standards shall be filed with the Secretary of State and codified only after they have been approved by the commission and shall not be published in any other title of the California Administrative Code. Emergency standards shall be filed with the Secretary of State and shall take effect only after they have been approved by the commission as required by Section 18937. The filing of building standards adopted or approved pursuant to this part, or any certification with respect thereto, with the Secretary of State, or elsewhere as required by law, shall be done solely by the commission.

(b) If a regulation is determined to be a building standard, it shall only become effective upon its codification in the triennial edition of the State Building Standards Code or one of its supplements, or at any later date as approved by the Building Standards Commission.

(c) This section shall not be applicable to the time limits set forth in Sections 17922 and 17958 for approval of uniform codes and for changes by local agencies in the State Building Standards Code.

CHAPTER 210

An act to amend Sections 18201, 18253, 18254, 18300, 18301, 18305, 18306, 18400, 18401, 18403, 18404, 18504, 18506, 18510, 18551, 18552, 18554, 18610, 18612, 18613, 18620, 18630, 18640, 18670, 18690, 18691, and 18700 of, and to add Section 18214.5 to, the Health and Safety Code, relating to mobilehome parks.

[Became law without Governor's signature. Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 18201 of the Health and Safety Code is amended to read:

18201. "Approved" when used in connection with any material, appliance, or construction, means meeting the requirements for obtaining the approval of the department.

SEC. 2. Section 18214.5 is added to the Health and Safety Code, to read:

18214.5. "Permanent building" means any permanent structure, other than factory-built housing, under the control and ownership of the mobilehome park owner or operator which is not on a mobilehome lot.

SEC. 3. Section 18253 of the Health and Safety Code is amended to read:

18253. The Legislature finds and declares that the specific requirements relating to construction, maintenance, occupancy, use, and design of mobilehome parks are best developed by the department in accordance with the criteria established by this part. Placing this responsibility with the department will allow for modifications of specific requirements in a rapid fashion and in a manner responsive to the needs of mobilehome park residents and owners.

SEC. 4. Section 18254 of the Health and Safety Code is amended to read:

18254. (a) It is the purpose of this part to accomplish both of the following:

(1) Assure protection of the health, safety, and general welfare of mobilehome park residents.

(2) Allow modifications in regulations adopted pursuant to this part in a manner consistent with the criteria established in this part.

(b) The regulations adopted by the department pursuant to the authority granted in this part shall provide equivalent or greater protection to residents of mobilehome parks than the statutes and regulations in effect prior to January 1, 1978.

SEC. 5. Section 18300 of the Health and Safety Code, as amended by Section 107 of Chapter 1076 of the Statutes of 1983, is amended to read:

18300. (a) This part applies to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to this part. Except as provided in Section 18930, the department may adopt regulations to interpret and make specific this part and when adopted the regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the

responsibility for the enforcement of this part and the regulations adopted pursuant to this part following approval by the department for the assumption.

(c) The department shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption shall relate solely to the ability of local agencies to enforce properly this part and the regulations adopted pursuant to this part. The regulations which set forth the conditions for assumption shall not set requirements for local agencies different than those which the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of mobilehome parks within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of this part or the regulations adopted pursuant to this part by a city, county, or city and county, the department shall enforce this part and the regulations adopted pursuant to this part in the city, county, or city and county after the department has given written notice to the governing body of the city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of the notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal the decision to the director of the department.

(e) Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of the notice, shall assume responsibility within 30 days.

(f) Every city, county, or city and county, within its jurisdiction, shall enforce this part and the regulations adopted pursuant to this part, as they relate to manufactured homes or mobilehomes and to mobilehome accessory buildings or structures located outside of mobilehome parks.

(g) This part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers, from doing any of the following:

(1) From establishing, subject to the requirements of Sections 65852.3 and 65852.7 of the Government Code, certain zones for manufactured homes, mobilehomes, or mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, or tent camps within the city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, adult mobilehome parks, mobilehome condominiums, mobilehome

subdivisions, or mobilehome planned unit developments within the city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, or tent camps.

(2) From regulating the construction and use of equipment and facilities located outside of a manufactured home, mobilehome, or recreational vehicle used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when the facilities are located outside a mobilehome park, recreational vehicle park, or temporary recreational vehicle park for which a permit is required by this part or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a manufactured home, mobilehome, or recreational vehicle outside a mobilehome park, recreational vehicle park, or temporary recreational vehicle park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of manufactured homes, mobilehomes, and recreational vehicles, which permit may be refused or revoked if the use violates this part or Part 2 (commencing with Section 18000), any regulations adopted pursuant thereto, or any local ordinance applicable to that use.

(4) From requiring a local building permit to construct an accessory structure for a manufactured home or mobilehome when the manufactured home or mobilehome is located outside a mobilehome park, recreational vehicle park, or temporary recreational vehicle park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000) and the regulations adopted pursuant thereto do not require the issuance of a permit therefor by the department.

(h) (1) A city, including a charter city, county, or city and county, shall not require the average density in a new mobilehome park to be less than that permitted by the applicable zoning ordinance, plus any density bonus, as defined in Section 65915 of the Government Code, for other affordable housing forms.

(2) A city, including a charter city, county, or city and county, shall not require a new mobilehome park to include a clubhouse. Recreational facilities, recreational areas, accessory structures, or improvements may be required only to the extent that the facilities or improvements are required in other types of residential developments containing a like number of residential dwelling units.

(i) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 6. Section 18300 of the Health and Safety Code, as amended

by Section 108 of Chapter 1076 of the Statutes of 1983, is amended to read:

18300. (a) This part applies to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to this part. Except as provided in Section 18930, the department may adopt regulations to interpret and make specific the provisions of this part and when adopted the regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part and the regulations adopted pursuant to this part following approval by the department for the assumption.

(c) The department shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption shall relate solely to the ability of local agencies to enforce properly the this part and the regulations promulgated pursuant to this part. The regulations which set forth the conditions for assumption shall not set requirements for local agencies different than those which the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of mobilehome parks within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of this part or the regulations adopted pursuant to this part by a city, county, or city and county, the department shall enforce this part and the regulations adopted pursuant to this part in any city, county, or city and county after the department has given written notice to the governing body of the city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of the notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal the decision to the director.

(e) Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of the notice, shall assume the responsibility within 30 days.

(f) Every city, county, or city and county, within its jurisdiction, shall enforce this part and the regulations adopted pursuant to this part, as they relate to manufactured homes, mobilehomes, and to manufactured home or mobilehome accessory buildings or

structures located outside of mobilehome parks.

(g) This part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers, from doing any of the following:

(1) From establishing, subject to the requirements of Section 65852.3 of the Government Code, certain zones for manufactured homes or mobilehomes or mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, or tent camps within the city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, adult mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within the city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing standards of lot, yards, or park area, landscaping, walls or enclosures, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, or tent camps.

(2) From regulating the construction and use of equipment and facilities located outside of a manufactured home, mobilehome, or recreational vehicle used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when the facilities are located outside a mobilehome park, recreational vehicle park, or temporary recreational vehicle park for which a permit is required by this part, or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a mobilehome or recreational vehicle outside a mobilehome park, recreational vehicle park, or temporary recreational vehicle park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of mobilehomes and recreational vehicles, which permit may be refused or revoked if the use violates this part or Part 2 (commencing with Section 18000), any regulations adopted pursuant thereto, or any local ordinance applicable to that use.

(4) From requiring a local building permit to construct an accessory structure for a manufactured home or mobilehome when the manufactured home or mobilehome is located outside a mobilehome park, recreational vehicle park, or temporary recreational vehicle park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000) and the regulations adopted pursuant thereto do not require the issuance of a permit therefor by the department.

(h) This section shall become operative January 1, 1988.

SEC. 7. Section 18301 of the Health and Safety Code is amended to read:

18301. (a) The provisions of this part applicable to mobilehome parks shall apply equally to recreational vehicle parks, temporary

recreational vehicle parks, incidental camping areas, and tent camps, except where specifically exempted by regulations adopted by the department pursuant to this part.

(b) The department shall adopt regulations for recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps which shall take into consideration such special conditions as location, physical environment, density of usage, type of operation, type of vehicles to be accommodated, and duration of occupancy. The department may vary the requirements for recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps according to conditions. These regulations shall establish requirements which are determined by the department to be reasonable and necessary for the protection of life and property.

SEC. 8. Section 18305 of the Health and Safety Code is amended to read:

18305. (a) This part is not intended to prevent the use of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by this part and the rules and regulations adopted pursuant to this part, if the alternate used has been approved.

(b) The department may approve any alternate if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent to that prescribed in this part and the rules and regulations adopted pursuant to this part in quality, strength, effectiveness, fire resistance, durability, safety, and for the protection of life and health.

(c) Whenever there is evidence that any material, appliance, installation, device, arrangement, or method of construction does not conform to the requirements of this part and the rules and regulations promulgated pursuant to this part, or in order to substantiate claims for alternates, the department may require proof of compliance to be made at the expense of the owner or his agent.

(d) The department shall notify the appropriate enforcement agency of its findings.

(e) This section is not applicable to local regulations authorized by this part.

SEC. 9. Section 18306 of the Health and Safety Code is amended to read:

18306. (a) The department shall evaluate the enforcement of this part and regulations adopted pursuant to this part by each city, county, or city and county which has assumed responsibility for enforcement.

(b) In performing this evaluation, the department shall have the following authority:

(1) To examine the records of local enforcement agencies and to secure from them reports and copies of their records at any time. However, if the department requires duplication of these records, it

shall pay for the costs of duplication.

(2) To carry out any investigations it deems necessary to ensure enforcement of this part and the regulations adopted pursuant thereto.

SEC. 10. Section 18400 of the Health and Safety Code is amended to read:

18400. (a) The department shall enforce this part and the rules and regulations adopted pursuant to this part, except as provided in Section 18300.

(b) The officers or agents of the enforcement agency may do either of the following:

(1) Enter public or private property to determine whether there exists any mobilehome park to which this part applies.

(2) Enter and inspect all mobilehome parks, wherever situated, and inspect all accommodations, equipment, or paraphernalia used in connection therewith, including the right to examine any registers of occupants maintained therein in order to secure the enforcement of this part and the regulations adopted pursuant to this part.

SEC. 11. Section 18401 of the Health and Safety Code is amended to read:

18401. The enforcement agency shall notify the owner or occupant of any manufactured home, mobilehome, recreational vehicle, or other structure of any violations of part relating to mobilehome parks, or of any other rules or regulations adopted pursuant to this part applicable to a manufactured home or mobilehome, accessory structure, or other structure or appurtenance owned, occupied, or under such person's control. The notification shall include a statement that any willful violation is a misdemeanor under Section 18700.

SEC. 12. Section 18403 of the Health and Safety Code is amended to read:

18403. In any action or proceeding to abate a nuisance in a mobilehome park, proof of any one of the following facts is sufficient for a judgment or order for the abatement of the nuisance, violation, or operation of the mobilehome park:

(a) A previous conviction of the owner or operator of a violation of this part or a regulation adopted pursuant to this part which constitutes a nuisance or failure on the part of the owner or operator to correct the violation after the conviction.

(b) The violation is the basis for the proceeding.

SEC. 13. Section 18404 of the Health and Safety Code is amended to read:

18404. (a) If any mobilehome park or portion thereof governed by this part is constructed, altered, converted, used, occupied, or maintained in violation of this part, the regulations adopted pursuant to this part, or any order or notice issued by the enforcement agency which allows a reasonable time to correct the violation, the enforcement agency may institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation.

(b) The superior court may make any order for which application is made pursuant to this part.

SEC. 14. Section 18504 of the Health and Safety Code is amended to read:

18504. Any person violating this chapter shall pay double the fees prescribed in this chapter.

SEC. 15. Section 18506 of the Health and Safety Code is amended to read:

18506. Permits to operate shall be issued by the enforcement agency. A copy of each permit to operate shall be forwarded to the department. No permit to operate shall be issued for a mobilehome park when the previous operating permit has been suspended by the enforcement agency until the violations which were the basis for the suspension have been corrected. No mobilehome park which was in existence on September 15, 1961, shall be denied a permit to operate if the mobilehome park complied with the law which this part supersedes. Permits to operate shall be issued for a 12-month period and invoiced according to a method and schedule established by the department. Permit applications returned to the enforcement agency 30 days after the due date shall be subject to a penalty fee equal to 10 percent of the established fee. The penalty fee for submitting a permit application 60 or more days after the due date shall equal 100 percent of the established permit fee. These penalties and the established permit fees shall be paid prior to issuance of the permit, and the fee and 100 percent penalty shall be due upon demand of the enforcement agency for any park which has not applied for a permit.

SEC. 16. Section 18510 of the Health and Safety Code is amended to read:

18510. If any person who holds a permit to operate violates the permit or this part, the permit may be suspended by the enforcement agency. This section does not, however, authorize the suspension of a permit of any mobilehome park existing on September 15, 1961, for any violation of this part which was not a violation of the law which this part supersedes.

SEC. 17. Section 18551 of the Health and Safety Code is amended to read:

18551. (a) The department shall establish regulations for manufactured home, mobilehome, and commercial coach foundation systems which shall be applicable throughout the state. When established, these regulations supersede any ordinance enacted by any city, county, or city and county applicable to manufactured home, mobilehome, and commercial coach foundation systems. The department may approve alternate foundations systems to those provided by regulation where the department is satisfied of equivalent performance. The department shall document approval of alternate systems by its stamp of approval on the plans and specifications for the alternate foundation system.

(b) Prior to installation of a manufactured home, mobilehome, or

commercial coach on a foundation system, the manufactured home, mobilehome, or commercial coach owner or a licensed contractor shall obtain a building permit from the appropriate local agency. To obtain a permit, the owner or contractor shall provide the following:

(1) Written evidence acceptable to the local agency that the manufactured home, mobilehome, or, commercial coach owner owns, holds title to, or is purchasing the real property where the mobilehome is to be installed on a foundation system. A lease held by the manufactured home, mobilehome, or commercial coach owner, which is transferable, for the exclusive use of the real property where the manufactured home, mobilehome, or commercial coach is to be installed, shall be deemed to comply with this paragraph if the lease is for a term of 35 years or more, or if less than 35 years, for a term mutually agreed upon by the lessor and lessee, and the term of the lease is not revocable at the discretion of the lessor except for cause, as described in subdivisions 2 to 5, inclusive, of Section 1161 of the Code of Civil Procedure.

(2) Written evidence acceptable to the local agency that the registered owner owns the manufactured home, mobilehome, or commercial coach free of any liens or encumbrances or, in the event that the legal owner is not the registered owner, or liens and encumbrances exist on the manufactured home, mobilehome, or commercial coach, written evidence provided by the legal owner and any lienors or encumbrancers that the legal owner, lienor, or encumbrancer consents to the attachment of the manufactured home, mobilehome, or commercial coach upon the discharge of any personal lien, which may be conditioned upon the satisfaction by the registered owner of the obligation secured by the lien.

(3) Plans and specifications required by department regulations or a department-approved alternate for the manufactured home, mobilehome, or commercial coach foundation system.

(4) The manufactured home, mobilehome, or commercial coach manufacturer's installation instructions, or plans and specifications signed by a California licensed architect or engineer covering the installation of an individual manufactured home, mobilehome, or commercial coach in the absence of the manufactured home, mobilehome, or commercial coach manufacturer's instructions.

(5) Building permit fees established by ordinance of the city, county, or city and county of the appropriate local agency.

(6) A fee payable to the department in the amount of eleven dollars ($11) for each transportable section of the manufactured home, mobilehome, or commercial coach, which shall be transmitted to the department at the time the certificate of occupancy is issued with a copy of the building permit and any other information concerning the manufactured home, mobilehome, or commercial coach which the department may prescribe on forms provided by the department.

(c) (1) On the same day that the certificate of occupancy for the manufactured home, mobilehome, or commercial coach is issued by

the appropriate local agency, the local agency shall record with the county recorder of the county in which the real property is situated, on which the manufactured home, mobilehome, or commercial coach has been installed, a document naming the owner of the real property, describing the real property with certainty, and stating that a manufactured home, mobilehome, or commercial coach has been affixed to such real property by installation on a foundation system pursuant to this section.

(2) When recorded, the document referred to in paragraph (1) shall be indexed by the county recorder to the named owner and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

(3) Fees received by the department pursuant to subdivision (b) shall be deposited in the Mobilehome-Manufactured Home Revolving Fund established under subdivision (a) of Section 18016. To the extent these fees are utilized for enforcement of consumer protections, subdivision (b) of Section 18016.5 does not apply.

(d) The department shall adopt regulations providing for the cancellation of registration of a manufactured home, mobilehome, or commercial coach which is permanently attached to the ground on a foundation system pursuant to this section. The regulations shall provide for the surrender to the department of the certificate of title and other indicia of registration. For the purposes of this subdivision, permanent affixation to a foundation system shall be deemed to have occurred on the day a certificate of occupancy is issued to the manufactured home, mobilehome, or commercial coach owner and the document referred to in paragraph (6) of subdivision (b) is recorded. Cancellation shall be effective as of that date and the department shall enter such cancellation on its records upon receipt of a copy of the certificate of occupancy. This subdivision shall not be construed to affect the application of existing laws, or the department's regulations or procedures with regard to the cancellation of registration, except as to the requirement therefor and the effective date thereof.

(e) Once installed on a foundation system in compliance with subdivisions (b) and (c), a manufactured home, mobilehome, or commercial coach shall be deemed a fixture and a real property improvement to the real property to which it is affixed. Physical removal of the manufactured home, mobilehome, or commercial coach shall thereafter be prohibited without the consent of all persons or entities who, at the time of removal, have title to any estate or interest in the real property to which the manufactured home, mobilehome, or commercial coach is affixed.

(f) For the purposes of this part:

(1) "Physical removal" includes, without limitation, the unattaching of the manufactured home, mobilehome, or commercial coach from the foundation system, except for temporary purposes of repair or improvement thereto.

(2) Consent to removal shall not be required from the owners of

rights-of-way or easements or the owners of subsurface rights or interests in or to minerals, including, but not limited to, oil, gas, or other hydrocarbon substances.

(g) At least 30 days prior to a legal removal of the manufactured home, mobilehome, or commercial coach from the foundation system and transportation away from the real property to which it was formerly affixed, the manufactured home, mobilehome, or commercial coach owner shall notify the department and the county assessor of the intended removal of the manufactured home, mobilehome, or commercial coach. The department shall require written evidence that the necessary consents have been obtained pursuant to this section and shall require application for either a transportation permit or manufactured home, mobilehome, or commercial coach registration as the department may decide is appropriate to the circumstances. Immediately upon removal, as defined in this section, the manufactured home, mobilehome, or commercial coach shall be deemed to have become personal property and subject to all laws governing the same as applicable to a manufactured home, mobilehome, or commercial coach.

(h) Notwithstanding any other provision of law, any manufactured home, mobilehome, or commercial coach installed on a foundation system, attached, or otherwise permanently affixed to, real property without compliance with subdivisions (b) and (c), shall not be deemed a fixture or improvement to the real property. This subdivision shall not be construed to affect the application of sales and use taxes or property taxes.

(i) Once installed on a foundation system, a manufactured home, mobilehome, or commercial coach shall be subject to state enforced health and safety standards for manufactured homes, mobilehomes, or commercial coaches enforced pursuant to Section 18020.

(j) No local agency shall require that any manufactured home, mobilehome, or commercial coach currently on private property be placed on a foundation system.

SEC. 17.5. Section 18551 of the Health and Safety Code is amended to read:

18551. (a) The department shall establish regulations for manufactured home, mobilehome, and commercial coach foundation systems which shall be applicable throughout the state. When established, these regulations supersede any ordinance enacted by any city, county, or city and county applicable to manufactured home, mobilehome, and commercial coach foundation systems. The department may approve alternate foundations systems to those provided by regulation where the department is satisfied of equivalent performance. The department shall document approval of alternate systems by its stamp of approval on the plans and specifications for the alternate foundation system.

(b) Prior to installation of a manufactured home, mobilehome, or commercial coach on a foundation system, the manufactured home, mobilehome, or commercial coach owner or a licensed contractor

shall obtain a building permit from the appropriate local agency. To obtain a permit, the owner or contractor shall provide the following:

(1) Written evidence acceptable to the local agency that the manufactured home, mobilehome, or, commercial coach owner owns, holds title to, or is purchasing the real property where the mobilehome is to be installed on a foundation system. A lease held by the manufactured home, mobilehome, or commercial coach owner, which is transferable, for the exclusive use of the real property where the manufactured home, mobilehome, or commercial coach is to be installed, shall be deemed to comply with this paragraph if the lease is for a term of 35 years or more, or if less than 35 years, for a term mutually agreed upon by the lessor and lessee, and the term of the lease is not revocable at the discretion of the lessor except for cause, as described in subdivisions 2 to 5, inclusive, of Section 1161 of the Code of Civil Procedure.

(2) Written evidence acceptable to the local agency that the registered owner owns the manufactured home, mobilehome, or commercial coach free of any liens or encumbrances or, in the event that the legal owner is not the registered owner, or liens and encumbrances exist on the manufactured home, mobilehome, or commercial coach, written evidence provided by the legal owner and any lienors or encumbrancers that the legal owner, lienor, or encumbrancer consents to the attachment of the manufactured home, mobilehome, or commercial coach upon the discharge of any personal lien, which may be conditioned upon the satisfaction by the registered owner of the obligation secured by the lien.

(3) Plans and specifications required by department regulations or a department-approved alternate for the manufactured home, mobilehome, or commercial coach foundation system.

(4) The manufactured home, mobilehome, or commercial coach manufacturer's installation instructions, or plans and specifications signed by a California licensed architect or engineer covering the installation of an individual manufactured home, mobilehome, or commercial coach in the absence of the manufactured home, mobilehome, or commercial coach manufacturer's instructions.

(5) Building permit fees established by ordinance of the city, county, or city and county of the appropriate local agency.

(6) A fee payable to the department in the amount of eleven dollars ($11) for each transportable section of the manufactured home, mobilehome, or commercial coach, which shall be transmitted to the department at the time the certificate of occupancy is issued with a copy of the building permit and any other information concerning the manufactured home, mobilehome, or commercial coach which the department may prescribe on forms provided by the department.

(c) (1) On the same day that the certificate of occupancy for the manufactured home, mobilehome, or commercial coach is issued by the appropriate local agency, the local agency shall record with the county recorder of the county in which the real property is situated,

on which the manufactured home, mobilehome, or commercial coach has been installed, a document naming the owner of the real property, describing the real property with certainty, and stating that a manufactured home, mobilehome, or commercial coach has been affixed to such real property by installation on a foundation system pursuant to this section.

(2) When recorded, the document referred to in paragraph (1) shall be indexed by the county recorder to the named owner and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

(3) Fees received by the department pursuant to subdivision (b) shall be deposited in the Mobilehome-Manufactured Home Revolving Fund established under subdivision (a) of Section 18016. To the extent these fees are utilized for enforcement of consumer protections, subdivision (b) of Section 18016.5 does not apply.

(d) The department shall adopt regulations providing for the cancellation of registration of a manufactured home, mobilehome, or commercial coach which is permanently attached to the ground on a foundation system pursuant to this section. The regulations shall provide for the surrender to the department of the certificate of title and other indicia of registration. For the purposes of this subdivision, permanent affixation to a foundation system shall be deemed to have occurred on the day a certificate of occupancy is issued to the manufactured home, mobilehome, or commercial coach owner and the document referred to in paragraph (6) of subdivision (b) is recorded. Cancellation shall be effective as of that date and the department shall enter such cancellation on its records upon receipt of a copy of the certificate of occupancy. This subdivision shall not be construed to affect the application of existing laws, or the department's regulations or procedures with regard to the cancellation of registration, except as to the requirement therefor and the effective date thereof.

(e) Once installed on a foundation system in compliance with subdivisions (b) and (c), a manufactured home, mobilehome, or commercial coach shall be deemed a fixture and a real property improvement to the real property to which it is affixed. Physical removal of the manufactured home, mobilehome, or commercial coach shall thereafter be prohibited without the consent of all persons or entities who, at the time of removal, have title to any estate or interest in the real property to which the manufactured home, mobilehome, or commercial coach is affixed.

(f) For the purposes of this part:

(1) "Physical removal" shall include, without limitation, the unattaching of the manufactured home, mobilehome, or commercial coach from the foundation system, except for temporary purposes of repair or improvement thereto.

(2) Consent to removal shall not be required from the owners of rights-of-way or easements or the owners of subsurface rights or interests in or to minerals, including, but not limited to, oil, gas, or

other hydrocarbon substances.

(g) At least 30 days prior to a legal removal of the manufactured home, mobilehome, or commercial coach from the foundation system and transportation away from the real property to which it was formerly affixed, the manufactured home, mobilehome, or commercial coach owner shall notify the department and the county assessor of the intended removal of the manufactured home, mobilehome, or commercial coach. The department shall require written evidence that the necessary consents have been obtained pursuant to this section and shall require application for either a transportation permit or manufactured home, mobilehome, or commercial coach registration as the department may decide is appropriate to the circumstances. Immediately upon removal, as defined in this section, the manufactured home, mobilehome, or commercial coach shall be deemed to have become personal property and subject to all laws governing the same as applicable to a manufactured home, mobilehome, or commercial coach.

(h) Notwithstanding any other provision of law, any manufactured home, mobilehome, or commercial coach installed on a foundation system, attached, or otherwise permanently affixed to, real property without compliance with subdivisions (b) and (c), shall not be deemed a fixture or improvement to the real property. This subdivision shall not be construed to affect the application of sales and use or property taxes.

(i) Once installed on a foundation system, a manufactured home, mobilehome, or commercial coach shall be subject to state enforced health and safety standards for manufactured homes, mobilehomes, or commercial coaches enforced pursuant to Section 18020.

(j) No local agency shall require that any manufactured home, mobilehome, or commercial coach currently on private property be placed on a foundation system.

(k) No local agency shall require that any manufactured home or mobilehome located in a mobilehome park be placed on a foundation system, so as to be permanently affixed to real property.

(*l*) No local agency shall require, as a condition for the approval of the conversion of a rental mobilehome park to a resident-owned park, including, but not limited to, a subdivision, cooperative, or condominium for mobilehomes, that any manufactured home or mobilehome located there be placed on a foundation system, so as to be permanently affixed to real property. This subdivision shall only apply to the conversion of a rental mobilehome park which has been operated as a rental mobilehome park for a minimum period of five years.

SEC. 18. Section 18552 of the Health and Safety Code is amended to read:

18552. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, and the department shall adopt other regulations for manufactured home or mobilehome accessory buildings or

structures. The regulations adopted by the department shall provide for the construction, location, and use of manufactured home or mobilehome accessory buildings or structures to protect the health and safety of the occupants and the public, and shall be enforced by the appropriate enforcement agency.

SEC. 19. Section 18554 of the Health and Safety Code is amended to read:

18554. It is unlawful to permit any wastewater or material from any plumbing fixtures in a manufactured home or mobilehome to be deposited upon the surface of the ground. Except as provided in Section 18930, the department may adopt any rules and regulations which it determines are reasonably necessary for the protection of life and property and to carry out the purposes of this section.

SEC. 20. Section 18610 of the Health and Safety Code is amended to read:

18610. Except as provided in Section 18930, the department shall adopt regulations to govern the construction, use, occupancy, and maintenance of mobilehome parks and lots within the parks. The regulations adopted by the department shall establish standards and requirements which protect the health, safety, and general welfare of the residents of mobilehome parks. The regulations adopted by the department shall provide equivalent or greater protection to the residents of mobilehome parks than the statutes and regulations in effect on December 31, 1977.

SEC. 21. Section 18612 of the Health and Safety Code is amended to read:

18612. Except as provided in Section 18930, the department shall adopt regulations to govern mobilehome lot access and driveways within mobilehome parks. The regulations adopted by the department shall establish standards or requirements which protect the health, safety, and general welfare of the residents of mobilehome parks and shall require proper maintenance of lot access and driveways. The regulations adopted by the department shall provide equivalent or greater protection to the residents of mobilehome parks than the statutes and regulations in effect on December 31, 1977.

SEC. 22. Section 18613 of the Health and Safety Code is amended to read:

18613. (a) A permit shall be obtained from the enforcement agency each time a manufactured home or mobilehome, which is required to be moved under a permit, is to be located or installed on any site for the purpose of human habitation or occupancy as a dwelling.

(b) The contractor engaged to install the manufactured home or mobilehome shall obtain the permit, except when the owner of the manufactured home or mobilehome proposes to perform the installation. When a contractor applies for a permit to install a manufactured home or mobilehome, he or she shall display a valid contractor's license. The contractor shall complete the installation of

the manufactured home or mobilehome in accordance with the regulations adopted by the department within the time limitations which shall be established by regulations of the department. The time limitations shall allow contractors a reasonable amount of time within which to complete manufactured home or mobilehome installations.

(c) If inspection of the manufactured home or mobilehome installation by the enforcement agency determines that the manufactured home or mobilehome cannot be approved for occupancy due to defective material, systems, workmanship, or equipment of the manufactured home or mobilehome, the contractor shall be allowed a reasonable amount of time, as determined by regulations of the department, to complete the installation after the defects in the manufactured home or mobilehome have been corrected.

(d) The enforcement agency shall immediately notify the department whenever any manufactured home or mobilehome cannot be approved for occupancy due to defects of the manufactured home or mobilehome. The report of notification shall indicate health and safety defects and, in the case of new manufactured homes or mobilehomes, substantial defects of materials and workmanship. For purposes of this section, "substantial defects of materials and workmanship" means defects objectively manifested by broken, ripped, cracked, stained, or missing parts or components and shall not include alleged defects concerning color combinations or grade of materials used. If the manufactured home or mobilehome fails the installation inspection because of conditions which do not endanger the health or safety of the occupant, the owner may occupy the manufactured home or mobilehome. If, however, the installation fails inspection due to immediate hazards to the health or safety of the occupant, as determined by the enforcement agency, the manufactured home or mobilehome shall not be occupied.

(e) Except as provided in Section 18930, the department shall adopt regulations for the installations and regulations which specify a standard form required to be used statewide by enforcement agencies as a certificate of occupancy or statement of installation acceptance. The department shall transmit a copy of the standard form to all enforcement agencies. An enforcement agency shall not be required to use the standard forms until their existing stock of forms for this purpose is depleted. The regulations adopted by the department pursuant to this section shall establish the requirements which the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this section. In adopting building regulations or adopting other regulations pursuant to this section, the department shall consider reassembly of the manufactured home or mobilehome, stabilizing devices and load-bearing supports, and utility connections and connectors.

(f) The department shall establish a schedule of fees for the permits required by this section commensurate with the cost of the enforcement of this section and the regulations adopted pursuant to the provisions of this section. Where a city, county, or city and county is responsible for the enforcement, the city, county, or city and county may establish a schedule of fees not to exceed the actual cost of enforcement and not to exceed those fees established by the department where the department is the enforcement agency. Permit fees and reinspection fees shall be paid to the enforcement agency by the permittee.

(g) This section does not apply to recreational vehicles or commercial coaches.

SEC. 23. Section 18620 of the Health and Safety Code is amended to read:

18620. The department shall promulgate the rules and regulations regarding the construction of buildings in mobilehome parks which the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable to the construction of all permanent buildings in a mobilehome park, except in a mobilehome park in a city, county, or city and county which has adopted and is enforcing a building code imposing restrictions equal to or greater than the restrictions imposed by the building standards published in the State Building Standards Code and the other rules and regulations adopted by the department and which city, county, or city and county is the enforcement agency.

SEC. 24. Section 18630 of the Health and Safety Code is amended to read:

18630. The department shall adopt the rules and regulations regarding plumbing in mobilehome parks which the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable to all plumbing in within permanent buildings, except a mobilehome park in a city, county, or city and county which has adopted and is enforcing a plumbing code imposing restrictions equal to or greater than the restrictions imposed by the building standards published in the State Building Standards Code and the other rules and regulations adopted by the department and which city, county, or city and county is the enforcement agency.

SEC. 25. Section 18640 of the Health and Safety Code is amended to read:

18640. The department shall adopt regulations for toilets, shower, and laundry facilities in mobilehome parks. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The building standards published in the State Building Standards Code and the other regulations adopted by the department shall establish standards and requirements which protect the health, safety, and general welfare of the residents of mobilehome parks, and shall require proper maintenance of those facilities. The building standards published in the State Building Standards Code and the other regulations adopted by the department shall provide equivalent or greater protection to the residents of mobilehome parks than the statutes and regulations in effect on December 31, 1977.

SEC. 26. Section 18670 of the Health and Safety Code is amended to read:

18670. The department shall adopt the rules and regulations regarding electrical wiring, fixtures, and equipment installed in mobilehome parks which the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable to all electrical wiring, fixtures, and equipment installed within permanent buildings, except within a mobilehome park in a city, county, or city and county which has adopted and is enforcing an electrical code imposing restrictions equal to or greater than the restrictions imposed by the building standards published in the State Building Standards Code and the other rules and regulations adopted by the department and which city, county, or city and county is the enforcement agency.

SEC. 27. Section 18690 of the Health and Safety Code is amended to read:

18690. The department shall adopt the rules and regulations regarding fuel gas equipment and installations in mobilehome parks which the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable to all fuel gas equipment and installations within permanent buildings, except within a mobilehome park in a city, county, or city and county which has adopted and is enforcing a gas

code imposing restrictions equal to or greater than the restrictions imposed by the building standards published in the State Building Standards Code and the other rules and regulations adopted by the department and which city, county, or city and county is the enforcement agency.

SEC. 28. Section 18691 of the Health and Safety Code is amended to read:

18691. The department shall adopt rules and regulations which it determines are reasonably consistent with generally recognized fire protection standards, governing conditions relating to the prevention of fire or for the protection of life and property against fire in mobilehome parks. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section within permanent buildings.

The regulations adopted by the department shall be applicable in all mobilehome parks, except in a mobilehome park within a city, county, or city and county which has adopted and is enforcing a fire prevention code imposing restrictions equal to or greater than the restrictions imposed by such building standards published in the State Building Standards Code and the other state regulations adopted by the department and which city, county, or city and county is the enforcement agency.

Notwithstanding the provisions of this section, the rules and regulations adopted by the department relating to the installation of water supply and fire hydrant systems shall not apply within mobilehome parks constructed, or approved for construction, prior to January 1, 1966.

SEC. 29. Section 18700 of the Health and Safety Code is amended to read:

18700. Any person who willfully violates this part, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the department pursuant to this part is guilty of a misdemeanor, punishable by a fine not exceeding four hundred dollars ($400) or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.

Any permitholder who willfully violates this part, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the department pursuant to this part shall be subject to suspension or revocation of his or her permit to operate.

Any person who willfully violates this part, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the department pursuant to this part, shall be liable for a civil penalty of five hundred dollars ($500) for each violation or for each day of a continuing violation. The enforcement agency shall institute or maintain an action in the appropriate court to collect any civil penalty arising under this section.

SEC. 30. Section 17.5 of this bill incorporates amendments to Section 18551 of the Health and Safety Code proposed by both this bill and SB 435. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 18551 of the Health and Safety Code, and (3) this bill is enacted after SB 435, in which case Section 17 of this bill shall not become operative.

CHAPTER 211

An act to amend Section 7056 of the Revenue and Taxation Code, relating to public finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 1985 Filed with Secretary of State July 12, 1985.]

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

SECTION 1. Section 7056 of the Revenue and Taxation Code is amended to read:

7056. (a) (1) Excepting the information set forth on permits issued under Article 2 (commencing with Section 6066) of Chapter 2, it is unlawful for the board, any person having an administrative duty under this part or any person who obtains access to information contained in, or derived from, sales and use tax records of the board pursuant to subdivision (b) or (c), to make known in any manner whatever the business affairs, operations, or any other information pertaining to any retailer or any other person required to report to the board or pay a tax pursuant to this part, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person.

(2) It is also unlawful for any person, other than an officer or employee of a county, city and county, or city, who obtains access to information contained in, or derived from, sales and use tax records of the board pursuant to subdivision (b), to retain that information after that person's contract with the county, city and county, or city has expired.

(3) Notwithstanding paragraphs (1) and (2), the Governor may, by general or special order, authorize examination by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person of the records maintained by the board under this part. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

(b) When requested by resolution of the legislative body of any county, city and county, or city, the board shall permit any duly authorized officer or employee of the county, city and county, city, or other person designated by that resolution, to examine all of the sales and use tax records of the board pertaining to sales and use taxes collected for the county, city and county, or city by the board pursuant to contract entered into between the board and the county, city and county, or city under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)).

(1) The resolution shall certify that any person designated by the resolution, other than an officer or employee meets all of the following conditions:

(A) Has an existing contract with the county, city and county, or city, to examine those sales and use tax records.

(B) Is required by that contract to disclose information contained in, or derived from, those sales and use tax records only to an officer or employee of the county, city and county, or city who is authorized by the resolution to examine the information.

(C) Is prohibited by that contract from performing consulting services for a retailer during the term of that contract.

(D) Is prohibited by that contract from retaining the information contained in, or derived from, those sales and use tax records, after that contract has expired.

(2) Information obtained by examination of board records as permitted in this subdivision shall be used only for purposes related to the collection of local sales and use taxes by the board pursuant to the contract, or for purposes related to other governmental functions of the county, city and county, or city set forth in the resolution.

(c) When requested by resolution of the legislative body of a district, the board shall permit any duly authorized officer or employee of the district to examine the records of the board pertaining to transactions and use taxes collected for the district by the board pursuant to contract entered into between the board and the district. Information obtained by examination of the board records as permitted in this subdivision shall be used only for purposes related to the collection of district transactions and use taxes by the board pursuant to the contract.

(d) If the board believes that any information obtained pursuant to subdivision (b) or (c) has been disclosed to any person not authorized or designated by the resolution of the legislative body of the county, city and county, city, or district, or has been used for purposes not permitted by subdivision (b) or (c), then notwithstanding subdivisions (b) and (c), the board may impose conditions on access to its sales and use tax records which the board considers reasonable, in order to protect the confidentiality of those records.

(e) Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of

any unpaid tax or amounts of tax required to be collected, interest, and penalties.

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 California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for local agencies to continue to honor existing contracts for analyses of local sales and use tax revenues, it is necessary for this act to take effect immediately.

CHAPTER 212

An act to amend Section 431 of the Military and Veterans Code, relating to state military forces.

[Approved by Governor July 12, 1985 Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 431 of the Military and Veterans Code is amended to read:

431. (a) The Adjutant General may, either directly or through armory boards, or through subordinate commanders, lease or otherwise authorize the use of, by any person for any lawful purpose, manage, supervise all activities in, perform all necessary military duties with respect to and control all armories that are built or acquired by the state, that come into possession or control of the state, or that are erected, purchased, leased, or provided or contributed to, in whole or in part, by any city, county, political subdivision, or district, or by anyone, for armory purposes.

(b) The Adjutant General may contract with the United States for the operation of any armory for purposes of training of federal military personnel, with provision that all state costs related to that operation shall be reimbursed by the United States.

(c) All revenues or income from any armory shall be paid to the Adjutant General who shall account for the revenues or income to the Controller at the close of each month in the form that the Controller prescribes and shall deposit the revenues and income into the Treasury to the credit of the Armory Discretionary Improvement Account, which is hereby created, in the General Fund. The revenues and income in the account shall be available, when appropriated, to the Adjutant General, for allocation for the maintenance, repairs, improvements, and operating expenses necessary or desirable for increased or improved community utilization of the facilities of the armory from which the revenues and income were derived. Post, welfare, or similar unit or organizational funds may be established and deposited pursuant to

rules and regulations adopted by the Adjutant General.

(d) The Adjutant General, on May 1st of each year, shall submit to the Department of General Services and obtain approval of a schedule of rental, license, or lease fees for each state-owned or leased armory by location. This schedule, when approved by the Department of General Services, shall be used by the Adjutant General during the next succeeding fiscal year to determine the minimum rental, license, or lease fees to be charged the renter, licensee, or lessor.

CHAPTER 213

An act to add Section 212 to the Health and Safety Code, relating to the State Department of Health Services.

[Approved by Governor July 12, 1985. Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 212 is added to the Health and Safety Code, to read:

212. (a) The department shall annually compile and publish the laws relating to the use, handling, transportation, storage, and disposal of hazardous materials, including, but not limited to, hazardous wastes, flammable materials, corrosives, explosives, pesticides, and radioactive materials together with laws relating to administration, enforcement, and emergency response. The compilation shall reflect the amendments, additions, and deletions enacted each year.

(b) The department may contract with the Legislative Counsel to prepare the compilation of laws required by subdivision (a) and with the Department of General Services to print and distribute the compilation. Copies of the compilation shall be distributed at cost.

(c) During the 1985–86 fiscal year, the department shall absorb the costs of preparing the compilation from existing appropriations. It is the intent of the Legislature, commencing with the 1986–87 fiscal year, to appropriate revenues received from the distribution of the compilation to the department for carrying out the purposes of this section.

CHAPTER 214

An act to amend Section 8880.61 of the Government Code, and to amend Section 4 of Proposition 37 on the November 1984 Statewide General Election Ballot, relating to the California State Lottery, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 1985 Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 8880.61 of the Government Code is amended to read:

8880.61. State Lottery Fund

(a) A special fund to be known as the "State Lottery Fund" is created within the State Treasury which is continuously appropriated for carrying out the purposes of this chapter. The fund shall receive all proceeds from the sales of lottery tickets or shares, the temporary line of credit for initial startup costs, and all other moneys credited to the lottery from any other lottery-related source.

(b) Except as provided by this act, moneys in the General Fund or any other state fund shall not be transferred to the State Lottery Fund or otherwise used to support the California State Lottery or the Lottery Commission or to pay the debts, obligations, or encumbrances of the Commission.

SEC. 2. Section 4 of Proposition 37 on the November 1984 Statewide General Election Ballot is amended to read:

SEC. 4. There is hereby established a temporary line of credit to be drawn from the General Fund to the State Lottery Fund established by this act in the amount of sixteen million five hundred thousand dollars ($16,500,000) which is appropriated for carrying out the purposes of this act. This line of credit may be drawn upon by the California State Lottery only during a period not to exceed 12 months beginning on the date of the initial appointment of the interim Director of the California State Lottery and only for the purpose of financing the initial startup of the lottery. The lottery may draw upon all or part of this temporary line of credit. Any funds advanced from the temporary line of credit shall be repaid to the General Fund within 12 months of the advance of the funds. In addition, interest shall be paid at an annual interest rate of 10 percent on funds advanced from the temporary line of credit commencing on the day funds are advanced.

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 for the provisions of this act to be effective when the California State Lottery is initially implemented in 1985, it is

necessary for this act to take effect immediately.

CHAPTER 215

An act to add and repeal Section 5705.4 of the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 1985. Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 5705.4 is added to the Welfare and Institutions Code, to read:

5705.4. (a) For the 1985–86 and 1986–87 fiscal years, in counties with a population of 100,000 to 110,000, as recorded in the 1980 federal census, the cost requirement for local financial participation pursuant to Section 5705 shall be waived for all programs except local hospital inpatient and state hospital services. The cost of state hospital services shall be financed on the basis of 90 percent state funds and 10 percent county funds for these counties during the 1985–86 and 1986–87 fiscal years.

(b) This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1987, deletes or extends that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to take effect for the 1985–86 fiscal year and thus alleviate immediate fiscal constraints for county mental health programs, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 216

An act to add Section 117.40 to the Code of Civil Procedure, relating to small claims court.

[Approved by Governor July 12, 1985 Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 117.40 is added to the Code of Civil Procedure, to read:

117.40. (a) A member of the United States armed forces on

active duty who has been assigned to a duty station outside of this state after his or her cause of action has accrued, except where the assignment is for a definite period of less than six months, shall be entitled to waive personal appearance and submit written declarations to serve as evidence supporting the party's claim, or allow another person (other than an attorney at law) to appear on the plaintiff's behalf. A person presenting a claim on behalf of a plaintiff pursuant to this section shall file with the court, at the time of the hearing, an affidavit stating that the person is serving without compensation, and that the person has presented no more than four such claims on behalf of another person within the state during the preceding 12 months.

(b) The defendant may file a claim in the same proceeding in an amount not to exceed the jurisdictional limit of the court as provided in Section 116.8.

CHAPTER 217

An act to amend Sections 7117, 10036, 10376.5, 10379, and 10605 of, and to add Section 10064 to, the Health and Safety Code, relating to public documents.

[Approved by Governor July 12, 1985. Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 7117 of the Health and Safety Code is amended to read:

7117. Cremated remains may be taken by boat from any harbor in this state, or by air, for burial at sea. Cremated remains shall be removed from their container before the remains are buried at sea.

Any person who buries at sea, either from a boat, or from the air, any human cremated remains shall file with the local registrar of births and deaths in the county nearest the point where the remains were buried a verified statement containing the name of the deceased person, the time and place of death, the place at which the cremated remains were buried, and any other information that the local registrar of births and deaths may require. The first copy of the endorsed permit shall be filed with the local registrar of births and deaths within 10 days of disposition. The third copy shall be returned to the office of issuance.

Notwithstanding any other provisions of this code, the cremated remains of a deceased person may be buried at sea as provided in this section and Section 10376.5.

SEC. 2. Section 10036 of the Health and Safety Code is amended to read:

10036. Notwithstanding any other provisions of law relating to

retention of public records, the State Registrar may cause the original records of birth, death and marriage filed under this division to be destroyed if all of the following requirements are met:

(a) A microfilm copy of such birth, death, and marriage records has been made.

(b) One year has elapsed since the date of registration of the records.

(c) Any microfilm used meets the minimum standards recommended by the National Bureau of Standards for permanent record purposes.

(d) Adequate provisions are made that the film reflect additions or corrections to the records.

(e) A copy of the microfilm is maintained in a manner which permits it to be used for all purposes served by the original record.

(f) A copy of the microfilm has been stored at a separate physical location in a place and manner which will reasonably assure its preservation indefinitely against loss or destruction.

SEC. 3. Section 10064 is added to the Health and Safety Code, to read:

10064. Notwithstanding any other law to the contrary, a local registrar of births and deaths, after one year from the date of registration and with the approval of, and under the supervision of, the State Registrar, may dispose of the local registrar's copies of the records, if both of the following exist:

(a) The original copies of the records are on file in the office of the State Registrar.

(b) Copies of the records are on file in the office of the county recorder. If the county recorder does not have copies of the records, he or she may accept the local registrar's copies as a special county record of the events.

SEC. 4. Section 10376.5 of the Health and Safety Code is amended to read:

10376.5. A permit for disposition for the purpose of removing cremated remains from the place of cremation or interment shall include a description of the final place of disposition sufficient to identify the place and shall be issued by the local registrar to the person having the right to control the disposition of the remains under Section 7100 upon the application of that person.

A permit for disposition shall be issued under this section only upon the signed acknowledgement by the person making application that trespass and nuisance laws apply to the disposition and that the permit gives no right of unrestricted access to property not owned by the person for the purpose of disposing of the remains.

The person to whom the permit for disposition was issued shall sign the permit, endorse upon it the date of final disposition and, within 10 days, return the first copy of the permit so endorsed to the local registrar of the district in which the disposition took place. The third copy of the permit shall be returned to the office of issuance. After one year the local registrar may destroy any original or duplicate

permit retained by him or her pursuant to this section.

SEC. 5. Section 10379 of the Health and Safety Code is amended to read:

10379. The person in charge of the place of interment, or the funeral director or person acting as funeral director if no person is in charge, shall sign the permit, endorse upon it the date of interment or cremation, and, within 10 days, return the first copy of the permit so endorsed to the local registrar of the district in which the interment took place. The third copy of the permit shall be returned to the office of issuance. After one year the local registrar may destroy any original or duplicate permit retained by the local registrar pursuant to this section.

SEC. 6. Section 10605 of the Health and Safety Code is amended to read:

10605. (a) A fee of three dollars ($3) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b) A fee of three dollars ($3) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of seven dollars ($7) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars ($4) of any seven dollar ($7) fee is exempt from subdivision (d) and shall be paid to either a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage record that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage record. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar and county recorder to the state for deposit into the General Fund as provided by Section 5183 of the Civil Code.

(d) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each county clerk to the state for deposit into the General Fund as provided by Section 5183 of the Civil Code.

(e) Each county clerk, local registrar, or county recorder collecting a fee pursuant to this section shall transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(f) The additional three dollars ($3) authorized to be charged to applicants other than public agency applicants for certified copies of marriage or marriage dissolution records by subdivisions (c) and (d)

may be increased pursuant to Section 114.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

CHAPTER 218

An act to add and repeal Article 10 (commencing with Section 5170) to Chapter 1 of Division 3 of the Business and Professions Code, relating to accountancy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 1985 Filed with Secretary of State July 12, 1985]

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

SECTION 1. Article 10 (commencing with Section 5170) is added to Chapter 1 of Division 3 of the Business and Professions Code, to read:

Article 10. Volunteer Accounting Services

5170. The board is authorized to enter into a contract with a nonprofit organization controlled by licensees to provide volunteer accounting services within the state. The contract shall be for fifty thousand dollars ($50,000) the first year and may be renewed from year to year in an amount to be determined by the Board of Accountancy not to exceed sixty-five thousand dollars ($65,000) per year.

5171. (a) The board shall follow the contracting procedure set forth in the State Administrative Manual. The contract shall emphasize a capacity and commitment to provide a structure for the provision of a volunteer community assistance program within the accounting profession. These services shall be available throughout the state and shall provide the assistance of volunteers to serve nonprofit organizations that are unable to afford to pay professional accounting fees. The assistance shall include, but need not be limited to:

(1) Providing volunteers to install accounting, internal control, and reporting systems, and training staff to operate these systems, and preparing applications for tax exemption.

(2) Matching accountants willing to serve on the board of directors or trustees of a nonprofit organization with those groups in need of such persons.

(3) Presenting training workshops and seminars dealing with

accounting and reporting problems common to the targeted nonprofit organizations.

(b) The contractor shall set forth programs and report program results to the board quarterly and to the Legislature annually.

5172. There is hereby appropriated from the Accountancy Fund to the board sufficient funds to execute the contract authorized pursuant to Section 5170. Notwithstanding Section 13340 of the Government Code, the funds appropriated by this section shall be available for encumbrance without regard to fiscal years.

(b) Payments under any contract shall be made on a quarterly basis in advance.

5173. This article shall remain in effect only until January 1, 1989, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends such date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to expeditiously serve the needs of the targeted beneficiaries of this volunteer community service program, many of whom need the assistance in order to survive, it is necessary that this act take effect immediately.

CHAPTER 219

An act to amend Section 37227.6 of the Education Code, relating to educational observances.

[Approved by Governor July 12, 1985 Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 37227.6 of the Education Code is amended to read:

37227.6. The second Wednesday in May is designated and set apart as the Day of the Teacher.

All public schools and educational institutions shall observe this day with suitable exercises commemorating and directing attention to teachers and the teaching profession. The exercises required by this section shall be integrated into the regular school program and shall be conducted by the school or institution within the amount otherwise budgeted for educational programs.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

CHAPTER 220

An act to amend Section 2712 of the Business and Professions Code, and to amend Section 13401 of the Corporations Code, relating to registered nurses.

[Approved by Governor July 12, 1985. Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 2712 of the Business and Professions Code is amended to read:

2712. Five members of the board constitute a quorum for the transaction of business at any meeting.

SEC. 2. Section 13401 of the Corporations Code is amended to read:

13401. As used in this part:

(a) "Professional services" means any type of professional services which may be lawfully rendered only pursuant to a license, certification or registration authorized by the Business and Professions Code or the Chiropractic Act.

(b) "Professional corporation" means a corporation organized under the General Corporation Law which is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating that profession as herein provided and which in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation rendering professional services by persons duly licensed by the Board of Medical Quality Assurance or any examining committee under the jurisdiction of the board, the Board of Registered Nursing, or the State Board of Pharmacy, shall not be required to obtain a certificate of registration in order to render those professional services.

(c) "Licensed person" means any natural person who is duly licensed under the provisions of the Business and Professions Code or the Chiropractic Act to render the same professional services as are or will be rendered by the professional corporation of which he is or intends to become, an officer, director, shareholder or employee.

(d) "Disqualified person" means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the same professional services which the particular professional corporation of which he or she is an officer, director, shareholder or employee is or was rendering.

CHAPTER 221

An act to amend Section 933 of the Penal Code, relating to grand juries, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 1985 Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 933 of the Penal Code, as amended by Section 5 of Chapter 1408 of the Statutes of 1982, is amended to read:

933. (a) No later than one month after the end of each fiscal or calendar year of a county, each grand jury impaneled during that fiscal or calendar year shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters other than fiscal matters during the fiscal or calendar year.

(b) No later than six months after the end of each fiscal or calendar year, each grand jury impaneled during that fiscal or calendar year shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to fiscal matters of county government during the fiscal or calendar year of the county.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment on the findings and recommendations. In any city and county, the mayor shall also comment on the findings and recommendations. All such comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy thereof shall be placed on file with the clerk of the public agency, or the mayor when applicable, and shall remain on file in that office.

(d) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 2. Section 933 of the Penal Code, as added by Section 6 of Chapter 1408 of the Statutes of 1982, is amended to read:

933. (a) No later than one month after the end of each fiscal year of a county, each grand jury impaneled during that fiscal year shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters other than fiscal matters during the fiscal year.

(b) No later than six months after the end of each fiscal year, each grand jury impaneled during that fiscal year shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to fiscal matters of county government during the fiscal year of the county.

(c) No later than 90 days after the grand jury submits any final report, the board of supervisors shall comment on the findings and recommendations of the grand jury that pertain to county government matters under the control of the board and every elective county officer shall report to the board of supervisors on the findings and recommendations pertaining to such county officer. In any city and county, the mayor shall also comment on the findings and recommendations of the grand jury. All such comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury for the fiscal year. A copy thereof shall be placed on file with the county clerk, or the mayor when applicable, and shall remain on file in the office of the county clerk or the mayor.

(d) This section shall become operative January 1, 1989.

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.

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 that this act may apply to, and thus provide for an effective response to, recommendations made by the grand jury which will be succeeded in June 1985, it is necessary for this act to take effect immediately.

CHAPTER 222

An act to amend Sections 7320 and 7380 of, and to add Sections 6526.5 and 7320.5 to, the Business and Professions Code, relating to cosmetology, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 1985 Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 6526.5 is added to the Business and Professions Code, to read:

6526.5. (a) A cosmetologist may practice cosmetology on the premises of a licensed barbershop, but only if that premises is also licensed by the Board of Cosmetology as a cosmetological establishment.

(b) A barber may practice barbering on the premises of a licensed

cosmetological establishment, but only if that premises is also licensed by the Board of Barber Examiners as a barbershop.

SEC. 2. Section 7320 of the Business and Professions Code is amended to read:

7320. No person, firm or corporation shall conduct or operate a cosmetological establishment, school of cosmetology, hairdressing shop, beauty parlor or any other place of business in which the art of cosmetology or any of its branches is taught or practiced, except the branch of manicuring as practiced in a barbershop, unless licensed under the provisions of this chapter and complying with the provisions of this chapter relating to sanitation. Any violation of this section is a misdemeanor.

SEC. 3. Section 7320.5 is added to the Business and Professions Code, to read:

7320.5. (a) A cosmetologist may practice cosmetology on the premises of a licensed barbershop, but only if that premises is also licensed by the Board of Cosmetology as a cosmetological establishment.

(b) A barber may practice barbering on the premises of a licensed cosmetological establishment, but only if that premises is also licensed by the Board of Barber Examiners as a barbershop.

SEC. 4. Section 7380 of the Business and Professions Code is amended to read:

7380. A cosmetological establishment is any premises, building or part of a building, whereon or wherein is practiced any branch or any combination of branches of cosmetology, or the occupation of a cosmetologist, except the branch of manicuring as practiced in barbershops, licensed by the board and complying with the provisions of Sections 7381, 7382, 7383, and 7384 and all sanitary regulations established by the board.

If a new cosmetological establishment is located in the same room as an existing barbershop, the existing equipment and plumbing of the barbershop shall be included in determining the minimum equipment and plumbing required for the cosmetological establishment.

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 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. 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:

This act will prevent cosmetological establishment owners from being at a distinct competitive disadvantage with barbershop

owners, a situation inadvertently created by provisions of Chapter 816, Statutes of 1984, which allow barbershop owners to hire cosmetologists without obtaining a cosmetological establishment license, but require a cosmetological establishment owner to obtain a barbershop license when hiring a barber. In order to remedy this problem at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 223

An act to add an article heading preceding Section 2078 of, and to add Article 2 (commencing with Section 2079) to, Chapter 3 of Title 6 of Part 4 of Division 3 of, the Civil Code, and to add Section 11589.5 to the Insurance Code, relating to professional liability.

[Approved by Governor July 12, 1985 Filed with Secretary of State July 12, 1985]

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

SECTION 1. An article heading is added preceding Section 2078 of the Civil Code, to read:

Article 1. Voluntary Interference with Property

SEC. 2. Article 2 (commencing with Section 2079) is added to Chapter 3 of Title 6 of Part 4 of Division 3 of the Civil Code, to read:

Article 2. Duty to Prospective Purchaser of Residential Property

2079. It is the duty of a real estate broker, licensed under the provisions of Division 4 (commencing with Section 10000) of the Business and Professions Code, to a prospective purchaser of residential real property comprising one to four dwelling units, including a manufactured home as defined in Section 18007 of the Health and Safety Code, to conduct a reasonably competent and diligent visual inspection of the property offered for sale and to disclose to that prospective purchaser all facts materially affecting the value or desirability of the property that such an investigation would reveal, if that broker has a written contract with the seller to find or obtain a buyer or is a broker who acts in cooperation with such a broker to find and obtain a buyer.

2079.1. The provisions of this article relating sale transactions of residential real property comprising one to four dwelling units apply with equal force to leases of that property that include an option to purchase, ground leases of land on which one to four dwelling units have been constructed, or real property sales contracts, as defined in Section 2985, for that property.

2079.2. The standard of care owed by a broker under this article is the degree of care that a reasonably prudent real estate licensee would exercise and is measured by the degree of knowledge through education, experience, and examination, required to obtain a license under Division 4 (commencing with Section 10000) of the Business and Professions Code.

2079.3. The inspection to be performed pursuant to this article does not include or involve an inspection of areas that are reasonably and normally inaccessible to such an inspection, and, if the property comprises a unit in a planned development as defined in Section 11003.1 of the Business and Professions Code, a condominium as defined in Section 783, or a stock cooperative as defined in Section 11003.2 of the Business and Professions Code, does not include an inspection of more than the unit offered for sale, if the seller or the broker complies with the provisions of Section 1360.

2079.4. In no event shall the time for commencement of legal action for breach of duty imposed by this article exceed two years from the date of possession, which means the date of recordation, the date of close of escrow, or the date of occupancy, whichever occurs first.

2079.5. Nothing in this article relieves a buyer or prospective buyer of the duty to exercise reasonable care to protect himself or herself, including those facts which are known to or within the diligent attention and observation of the buyer or prospective buyer.

SEC. 3. Section 11589.5 is added to the Insurance Code, to read:

11589.5. No insurer who provides professional liability insurance for persons licensed under the provisions of Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code shall exclude from coverage under that policy liability arising from the breach of the duty of the licensee arising under Article 2 (commencing with Section 2079) of Chapter 3 of Title 6 of Part 4 of Division 3 of the Civil Code. Notwithstanding the foregoing, an insurer may exclude coverage against liability arising out of a dishonest, fraudulent, criminal, or malicious act, error, or omission committed by, at the direction of, or with the knowledge of the insured.

For the purposes of this section, "professional liability insurance" means insurance against liability for damages caused by any act or omission of a real estate licensee in rendering professional services in this state.

SEC. 4. It is the intent of the Legislature that this act codify and make precise the holding in Easton v. Strassburger (152 Cal. App. 3d 90). The Legislature finds that the imprecision of terms in the Easton case and the absence of a comprehensive declaration of duties, standards, and exceptions has caused insurers to modify professional liability coverage of real estate licensees and has caused confusion among real estate licensees as to the manner of performing the duty ascribed to them by the court, and that it is necessary to resolve and make precise these issues in an expeditious manner. The Legislature

finds that it is desirable to facilitate the issuance of professional liability insurance as a resource for aggrieved members of the public, and declares that the provisions of this act are, and shall be interpreted as, a definition of the duty of care found to exist by Easton v. Strassburger, and the manner of its discharge.

CHAPTER 224

An act to add Section 3289.5 to the Civil Code, relating to retail installment sales.

[Approved by Governor July 12, 1985. Filed with Secretary of State July 12, 1985.]

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

SECTION 1. Section 3289.5 is added to the Civil Code, to read:

3289.5. For purposes of Section 3289, the rate of the contracted finance charge shall be the legal rate of interest stipulated by a retail installment contract subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3.

CHAPTER 225

An act to amend Sections 1642, 1642.3, 1642.9, 1643.3 and 22834 of the Elections Code, relating to elections.

[Approved by Governor July 12, 1985. Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 1642 of the Elections Code is amended to read:

1642. The county clerk shall also publish the list of the polling places designated for each election precinct, followed by the list of names of precinct board members appointed. The list of names of precinct board members need not be published in precinct order, at the discretion of the county clerk. Publication shall be pursuant to Section 6061 of the Government Code in the county where the election is to be held and in any newspaper of general circulation designated by the county clerk.

SEC. 2. Section 1642.3 of the Elections Code is amended to read:

1642.3. (a) Following the notification of the precinct board members appointed pursuant to Section 1641, the county clerk shall mail or deliver to the county central committee of each qualified political party a copy of the list, and the clerk may notify the same

committee of any substitute appointments that are made until the time the notice of final order is sent to the precinct inspector. This list shall have the names of precinct board members in precinct order.

(b) In addition, the clerk shall make available a copy of the list prescribed in subdivision (a) to any person requesting a copy.

Any person requesting a copy of the list shall sign a roster specifying his or her name, telephone number, and address and shall provide the clerk with adequate personal identification.

SEC. 3. Section 1642.9 of the Elections Code is amended to read:

1642.9. In each county where the county clerk determines that the public interest, convenience, and necessity require the local publication of the list of the names of precinct board members appointed and polling places designated for each election precinct in order to afford adequate notice of this subject to the electorate, publication of this list shall be made as provided in this section and Section 1643.

After such determination, the county clerk shall divide and distribute the list of precinct board members and polling places and cause the same to be published in newpapers of general circulation published in different places in the county as hereinafter provided, the publication to be at least one week before the day of election. The list of precinct board members appointed need not be in precinct order for purposes of publication, at the discretion of the county clerk.

Divisions of the list of names of the precinct board members and polling places may be published in that daily newspaper of general circulation published or circulated in one or more cities in the county, with the exception of the county seat, which it is determined will give to the electorate in each city adequate notice of the election. If there is no daily newspaper, publication may be made in a semiweekly newspaper, a triweekly newspaper, or a weekly newspaper of general circulation which it is determined will give the electorate in the city adequate notice of the election.

The list of names of the precinct board members appointed and polling places designated for various portions of the unincorporated area of the county and of the county seat may be published in those daily, semiweekly, triweekly, or weekly newspapers of general circulation published or circulated within the various portions of the unincorporated area and the county seat, deemed by the county clerk to be those newspapers which will give adequate notice of the election to the voters of the respective portions of the unincorporated area and the county seat.

SEC. 4. Section 1643.3 of the Elections Code is amended to read:

1643.3. In any case where the provisions of this chapter require the publication or distribution of a list of the names of precinct board members, or a portion of the list, the officers charged with the duty of publication shall ascertain the name of the political party, if any, with which each such precinct board member is affiliated, as shown

in the affidavit of registration of such person. When the list is published or distributed there shall be printed the name of the board member's party or an abbreviation of the name to the right of the name, or immediately below the name, of each such precinct board member. If a precinct board member is not affiliated with a political party, the words "No party," "Nonpartisan," or "Decline to state" shall be printed in place of the party name.

SEC. 5. Section 22834 of the Elections Code is amended to read:

22834. Not later than 20 days prior to any municipal election, the city clerk shall publish the list of the polling places designated for each election precinct. This list shall be followed by the list of names of election officers appointed. The list of names of election officers need not be published in precinct order, at the discretion of the city clerk. Publication shall be in the city and pursuant to Section 6061 of the Government Code. If there is no newspaper of general circulation published and circulated in the city, the list shall be typewritten and copies shall be posted conspicuously within the time prescribed in at least three public places in the city. The list shall be headed "Election Officers and Polling Places" in conspicuous type and shall be substantially in the following form:

ELECTION OFFICERS AND POLLING PLACES

Notice is hereby given that at the _____ (general or special) municipal election to be held in the City of _____ on Tuesday, the _____ day of _____, 19__, there shall be _____ (_____) voting precincts consisting (of consolidations) of the regular election precincts in the City of _____ established for the holding of state and county elections; that the polling places for the respective precincts shall be the places hereinafter designated; and that the persons hereinafter named have been appointed officers of election for their respective voting precincts.

Voting Precinct 1, comprising regular election precinct number (or numbers).

_____ Polling Place: (state place)

Voting Precinct 2, comprising regular election precinct number (or numbers).

_____ Polling Places: (state place)

Officer _____
(name)

Officer _____
(name)

CHAPTER 226

An act to amend Sections 2982.5, 2983.2, and 2983.3 of the Civil Code, to amend Sections 22005 and 24005 of, and to add Sections 22465, 22465.5, 24465, and 24465.5 to, the Financial Code, relating to loans.

[Approved by Governor July 12, 1985 Filed with Secretary of State July 12, 1985]

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

SECTION 1. Section 2982.5 of the Civil Code is amended to read:

2982.5. (a) Nothing contained in this chapter shall be deemed to affect a loan, or the security therefor, between a purchaser of a motor vehicle and a supervised financial organization, other than the seller of the motor vehicle, all or a portion of which loan is used in connection with the purchase of a motor vehicle. As used herein "supervised financial organization" means a person organized, chartered, or holding a license or authorization certificate under a law of this state or the United States to make loans and subject to supervision by an official or agency of this state or the United States.

(b) Nothing in this chapter shall be deemed to prohibit the seller's assisting the buyer in obtaining a loan upon any security from any third party to be used as a part or all of the downpayment or any other payment on a conditional sale contract or purchase order; provided that the conditional sale contract sets forth on its face the amount of the loan, the finance charge, the total thereof, the number of installments scheduled to repay the loan and the amount of each installment, that the buyer may be required to pledge security for the loan, which security must be mutually agreed to by the buyer and the lender and notice to the buyer in at least eight-point type that he or she is obligated for the installment payments on both the conditional sale contract and the loan. The seller shall not provide any security or other guarantee of payment on the loan, nor shall the seller receive any commission or other remuneration for assisting the buyer to obtain the loan. If the buyer obligates himself to purchase, or receives possession of, the motor vehicle prior to securing the loan, and if the buyer upon appropriate application for the loan is unable to secure the loan, on the conditions stated in the conditional sale contract, the conditional sale contract or purchase order shall be deemed rescinded and all consideration thereupon shall be returned by the respective parties without demand.

(c) The proceeds of any such loan payable to the seller after the date of the contract but prior to the due date of the second payment otherwise scheduled thereunder shall not be subject to a finance charge and the amount thereof shall be disclosed pursuant to subparagraph (B) of paragraph (6) of subdivision (a) of Section 2982.

(d) Nothing in this chapter shall be deemed to prohibit the seller's

assisting the buyer in obtaining a loan from any third party to be used to pay for the full purchase price, or any part thereof, of a motor vehicle provided that each of the following provisions shall apply:

(1) The loan may be upon any security, but except as provided in paragraph (2), the loan shall not be secured in whole or in part by a lien on real property. Any lien on real property taken in violation of this section shall be void and unenforceable.

(2) A lien on real property may be taken to secure a loan of seven thousand five hundred dollars ($7,500) or more used to pay the full purchase price, or any part thereof, of a recreational vehicle, as defined in Section 18010 of the Health and Safety Code, which is not less than 20 feet in length.

(3) The provisions of Sections 2983.2, 2983.3, and 2984.4 shall apply to the loan, but shall not authorize the lender or the lender's successor in interest to charge for any costs, fees, or expenses or to obtain any other benefit which the lender is prohibited from charging or obtaining under any regulatory law applicable to the lender. Notwithstanding this paragraph, the provisions of Sections 2983.2 and 2983.3 shall not apply to a loan made by a lender licensed under Division 9 (commencing with Section 22000) or Division 10 (commencing with Section 24000) of the Financial Code.

(4) The lender or the lender's successor in interest shall be subject to all claims and defenses which the buyer could assert against the seller, but liability may not exceed the amount of the loan.

(5) If the buyer becomes obligated to purchase, or receives possession of, the motor vehicle prior to obtaining the loan, the agreement between the buyer and the seller shall set forth on its face the amount of the loan, the finance charge, the total thereof, the number of installments scheduled to repay the loan and the amount of each installment, that the buyer may be required to pledge security for the loan, which security must be mutually agreed to by the buyer and the lender, and notice to the buyer in at least eight-point type that the buyer is obligated for the installment payments on the loan and for any payments which may be due on the agreement between the buyer and the seller. The seller shall not provide any security or other guarantee of payment on the loan, and the seller shall not receive any commission or other remuneration for assisting the buyer to obtain the loan. If the buyer upon proper application for the loan is unable to obtain the loan, on the condition stated in the agreement between the buyer and the seller, the agreement shall be deemed rescinded and all consideration thereupon shall be returned by the respective parties without demand.

(6) Any waiver by the buyer of the provisions of this section shall be void and unenforceable.

This subdivision shall not apply to state or federally chartered banks and savings and loan associations and shall not be construed to affect existing law regarding a seller's assisting a buyer to obtain a loan from a bank or savings and loan association or any loan obtained

by the buyer from those lenders.

SEC. 2. Section 2983.2 of the Civil Code is amended to read:

2983.2. (a) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, at least 15 days' written notice of intent to dispose of a repossessed or surrendered motor vehicle must be given to all persons liable on the contract. The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the persons liable on the contract. Except as otherwise provided in Section 2983.8, those persons shall be liable for any deficiency after disposition of the repossessed or surrendered motor vehicle only if the notice prescribed by this section is given within 60 days of repossession or surrender and does all of the following:

(1) Sets forth that those persons shall have a right to redeem the motor vehicle by paying in full the indebtedness evidenced by the contract until the expiration of 15 days from the date of giving or mailing the notice and provides an itemization of the contract balance and of any deliquency, collection or repossession costs and fees and sets forth the computation or estimate of the amount of any credit for unearned finance charges or canceled insurance as of the date of the notice.

(2) States either that there is a conditional right to reinstate the contract until the expiration of 15 days from the date of giving or mailing the notice and all the conditions precedent thereto or that there is no right of reinstatement and provides a statement of reasons therefor.

(3) States that, upon written request, the seller or holder shall extend for an additional 10 days the redemption period or, if entitled to the conditional right of reinstatement, both the redemption and reinstatement periods. The seller or holder shall provide the proper form for applying for the extensions with the substance of the form being limited to the extension request, spaces for the requesting party to sign and date the form, and instructions that it must be personally served or sent by certified or registered mail, return receipt requested, to a person or office and address designated by the seller or holder and received before the expiration of the initial redemption and reinstatement periods.

(4) Discloses the place at which the motor vehicle will be returned to those persons upon redemption or reinstatement.

(5) Designates the name and address of the person or office to whom payment shall be made.

(6) States the seller's or holder's intent to dispose of the motor vehicle upon the expiration of 15 days from the date of giving or mailing the notice, or if by mail and either the place of deposit in the mail or the place of address is outside of this state, the period shall be 20 days instead of 15 days, and further, that upon written request to extend the redemption period and any applicable reinstatement period for 10 days, the seller or holder shall without further notice

extend the period accordingly.

(7) Informs such persons that upon written request, the seller or holder shall furnish a written accounting regarding the disposition of the motor vehicle as provided for in subdivision (b). The seller or holder shall advise them that such request must be personally served or sent first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the seller or holder.

(8) Includes notice, in at least 10-point bold type if the notice is printed, reading as follows: "NOTICE. YOU MAY BE SUBJECT TO SUIT AND LIABILITY IF THE AMOUNT OBTAINED UPON DISPOSITION OF THE VEHICLE IS INSUFFICIENT TO PAY THE CONTRACT BALANCE AND ANY OTHER AMOUNTS DUE."

(b) Unless automatically provided to the buyer within 45 days after the disposition of the motor vehicle, the seller or holder shall provide to any person liable on the contract within 45 days after their written request, if the request is made within one year after the disposition, a written accounting regarding the disposition. The accounting shall itemize:

(1) The gross proceeds of the disposition.

(2) The reasonable and necessary expenses incurred for retaking, holding, preparing for and conducting the sale and to the extent provided for in the agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the seller or holder in retaking the vehicle from any person not a party to the contract.

(3) The satisfaction of indebtedness secured by any subordinate lien or encumbrance on the motor vehicle if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the seller or holder, the holder of a subordinate lien or encumbrance must seasonably furnish reasonable proof of its interest, and unless it does so, the seller or holder need not comply with its demand.

(c) In all sales which result in a surplus, the seller or holder shall furnish an accounting as provided in subdivision (b) whether or not requested by the buyer. Any surplus shall be returned to the buyer within 45 days after the sale is conducted.

(d) This section shall not apply to a loan made by a lender licensed under Division 9 (commencing with Section 22000) or Division 10 (commencing with Section 24000) of the Financial Code.

SEC. 3. Section 2983.3 of the Civil Code is amended to read:

2983.3. (a) In the absence of default in the performance of any of the buyer's obligations under the contract, the seller or holder may not accelerate the maturity of any part or all of the amount due thereunder or repossess the motor vehicle.

(b) If after default by the buyer, the seller or holder repossesses or voluntarily accepts surrender of the motor vehicle, any person liable on the contract shall have a right to reinstate the contract and the seller or holder shall not accelerate the maturity of any part or

all of the contract prior to expiration of the right to reinstate, unless the seller or holder reasonably and in good faith determines that:

(1) The buyer or any other person liable on the contract by omission or commission intentionally provided false or misleading information of material importance on his or her credit application.

(2) The buyer or any other person liable on the contract in order to avoid repossession has concealed the motor vehicle or removed it from the state; or

(3) The buyer or any other person liable on the contract has committed or threatens to commit acts of destruction, or has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle has or may become substantially impaired in value.

(c) Exercise of the right to reinstate the contract shall be limited to once in any 12 months period and twice during the term of the contract.

(d) The provisions of this subdivision shall govern the method by which a contract shall be reinstated with respect to curing events of default which were a ground for repossession or occurred subsequent to repossession.

(1) Where the default is the result of the buyer's failure to make any payment due under the contract, the buyer or any other person liable on the contract shall make the defaulted payments and pay any applicable delinquency charges.

(2) Where the default is the result of the buyer's failure to keep and maintain the motor vehicle free from all encumbrances and liens of every kind, the buyer or any other person liable on the contract shall either satisfy all encumbrances and liens or, in the event the seller or holder satisfies the encumbrances and liens, the buyer or any other person liable on the contract shall reimburse the seller or holder for all reasonable costs and expenses incurred therefor.

(3) Where the default is the result of the buyer's failure to keep and maintain insurance on the motor vehicle, the buyer or any other person liable on the contract shall either obtain the insurance or, in the event the seller or holder has obtained the insurance, the buyer or any other person liable on the contract shall reimburse the seller or holder for premiums paid and all reasonable costs and expenses incurred therefor.

(4) Where the default is the result of the buyer's failure to perform any other obligation under the contract, unless the seller or holder has made a good faith determination that the default is so substantial as to be incurable, the buyer or any other person liable on the contract shall reimburse the seller or holder for all reasonable costs and expenses incurred therefor.

(5) Additionally, the buyer or any other person liable on the contract shall, in all cases, reimburse the seller or holder for all reasonable and necessary collection and repossession costs and fees incurred, including attorney's fees and legal expenses expended in retaking and holding the vehicle.

(e) If the seller or holder denies the right to reinstatement under

subdivision (b) or paragraph (4) of subdivision (d), the seller or holder shall have the burden of proof that the denial was justified in that it was reasonable and made in good faith. If the seller or holder fails to sustain the burden of proof, the seller or holder shall not be entitled to a deficiency.

(f) This section shall not apply to a loan made by a lender licensed under Division 9 (commencing with Section 22000) or Division 10 (commencing with Section 24000) of the Financial Code.

SEC. 4. Section 22005 of the Financial Code is amended to read:

22005. "Charges" do not include any of the following:

(a) Commissions received as a licensed insurance agent or broker in connection with insurance written as provided in Section 22458.

(b) Amounts not in excess of the amounts specified in subdivision (c) of Section 3068 of the Civil Code paid to holders of possessory liens, imposed pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code, to release motor vehicles which secure loans subject to this division.

(c) Court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on his or her loan.

(d) Fees paid to a licensee for a charge or credit card which entitles a cardholder to participate in an open end credit program, which fees are to cover administrative costs and are imposed upon the issuance of the charge or credit card and on annual renewal dates or anniversary dates thereafter.

(e) Amounts received by a licensee from a seller, from whom the borrower obtains money, goods, labor, or services on credit, in connection with a transaction under an open end credit program which are paid or deducted from the loan proceeds paid to the seller at the direction of the borrower and which are an obligation of the seller to the licensee for the privilege of allowing the seller to participate in the licensee's open end credit program. Amounts received by a licensee from a seller pursuant to this subdivision may not exceed 6 percent of the loan proceeds paid to the seller at the direction of the borrower.

(f) Actual fees not exceeding one hundred fifty dollars ($150) paid in connection with the repossession of a motor vehicle to repossession agencies licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code provided the licensee complies with Sections 22465 and 22465.5.

SEC. 5. Section 22465 is added to the Financial Code, to read:

22465. (a) This section applies to a loan secured in whole or in part by a lien on a motor vehicle as defined by subdivision (k) of Section 2981 of the Civil Code.

(b) Any provision in any loan contract to the contrary notwithstanding, at least 15 days' written notice of intent to dispose of a repossessed or surrendered motor vehicle must be given to all persons liable on the loan. The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the

persons liable on the loan. Except as otherwise provided in Section 2983.8 of the Civil Code, those persons shall be liable for any deficiency after disposition of the repossessed or surrendered motor vehicle only if the notice prescribed by this section is given within 60 days of repossession or surrender and does all of the following:

(1) Sets forth that those persons shall have a right to redeem the motor vehicle by paying in full the indebtedness evidenced by the loan note until the expiration of 15 days from the date of giving or mailing the notice, provides an itemization of the loan balance and of any costs and fees authorized by this division, and sets forth the computation or estimate of the amount of any credit for unearned finance charges or canceled insurance as of the date of the notice.

(2) States either that there is a conditional right to reinstate the loan until the expiration of 15 days from the date of giving or mailing the notice and all the conditions precedent thereto or that there is no right of reinstatement and provides a statement of reasons therefor.

(3) States that, upon written request, the licensee shall extend for an additional 10 days the redemption period or, if entitled to the conditional right of reinstatement, both the redemption and reinstatement periods. The licensee shall provide the proper form for applying for these extensions with the substance of the form being limited to the extension request, spaces for the requesting party to sign and date the form, and instructions that it must be personally served or sent by certified or registered mail, return receipt requested, to a person or office and address designated by the licensee and received before the expiration of the initial redemption and reinstatement periods.

(4) Discloses the place at which the motor vehicle will be returned to the persons liable on the loan upon redemption or reinstatement.

(5) Designates the name and address of the person or office to whom payment shall be made.

(6) States the licensee's intent to dispose of the motor vehicle upon the expiration of 15 days from the date of giving or mailing the notice, or if by mail and either the place of deposit in the mail or the place of address is outside of this state, the period shall be 20 days instead of 15 days, and further, that upon written request to extend the redemption period and any applicable reinstatement period for 10 days, the licensee shall, without further notice, extend the period accordingly.

(7) Informs the persons liable on the loan that, upon written request, the licensee shall furnish a written accounting regarding the disposition of the motor vehicle as provided for in subdivision (c). The licensee shall advise them that the request must be personally served or sent by first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the licensee.

(8) Includes notice, in at least 10-point bold type if the notice is

printed, reading as follows: "NOTICE. YOU MAY BE SUBJECT TO SUIT AND LIABILITY IF THE AMOUNT OBTAINED UPON DISPOSITION OF THE VEHICLE IS INSUFFICIENT TO PAY THE LOAN BALANCE AND ANY OTHER AMOUNTS DUE."

(c) Unless automatically provided to the borrower within 45 days after the disposition of the motor vehicle, the licensee shall provide to any person liable on the loan within 45 days after their written request, if the request is made within one year after the disposition, a written accounting regarding the disposition. The accounting shall itemize:

(1) The gross proceeds of the disposition.

(2) The reasonable and necessary costs and fees authorized by this division incurred in repossessing the motor vehicle.

(3) The satisfaction of indebtedness secured by any subordinate lien or encumbrance on the motor vehicle if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the licensee, the holder of a subordinate lien or encumbrance shall seasonably furnish reasonable proof of its interest, and unless it does so, the seller or holder need not comply with its demand.

(d) In all sales which result in a surplus, the licensee shall furnish an accounting as provided in subdivision (c) whether or not requested by the borrower. The surplus shall be returned to the borrower within 45 days after the sale is conducted.

SEC. 6. Section 22465.5 is added to the Financial Code, to read:

22465.5. (a) This section applies to a loan secured in whole or in part by a lien on a motor vehicle as defined by subdivision (k) of Section 2981 of the Civil Code.

(b) In the absence of default in the performance of any of the borrower's obligations under the loan, the licensee may not accelerate the maturity of any part or all of the amount due thereunder or repossess the motor vehicle.

(c) If, after default by the borrower, the licensee repossesses or voluntarily accepts surrender of the motor vehicle, any person liable on the loan shall have a right to reinstate the loan and the licensee shall not accelerate the maturity of any part or all of the loan prior to the expiration of the right to reinstate, unless the licensee reasonably and in good faith determines that:

(1) The borrower or any other person liable on the loan by omission or commission intentionally provided false or misleading information of material importance on his or her credit application.

(2) The borrower or any other person liable on the loan in order to avoid repossession has concealed the motor vehicle or removed it from the state.

(3) The borrower or any other person liable on the loan has committed or threatens to commit acts of destruction, or has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle has or may become substantially impaired in value.

(d) Exercise the right to reinstate the loan shall be limited to once

in any 12-month period and twice during the term of the loan.

(e) The provisions of this subdivision shall govern the method by which a loan shall be reinstated with respect to curing events of default which were a ground for repossession or occurred subsequent to repossession.

(1) Where the default is the result of the borrower's failure to make any payment due under the loan, the borrower or any other person liable on the loan shall make the defaulted payments and pay any applicable delinquency charges.

(2) Where the default is the result of the borrower's failure to keep and maintain the motor vehicle free from all encumbrances and liens of every kind, the borrower or any other person liable on the loan shall either satisfy all the encumbrances and liens or, in the event the licensee satisfies the encumbrances and liens, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.

(3) Where the default is the result of the borrower's failure to keep and maintain insurance on the motor vehicle, the borrower or any other person liable on the loan shall either obtain the insurance or, in the event the licensee has obtained the insurance, the borrower or any other person liable on the loan shall reimburse the licensee for premiums paid and all reasonable costs and expenses incurred therefor.

(4) Where the default is the result of the borrower's failure to perform any other obligation under the loan, unless the licensee has made a good faith determination that the default is so substantial as to be incurable, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.

(5) Additionally, the borrower or any other person liable on the loan shall reimburse the licensee for actual fees not exceeding one hundred fifty dollars ($150) paid in connection with the repossession of a motor vehicle to a repossession agency licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code.

(f) If the licensee denies the right to reinstatement under subdivision (c) or paragraph (4) of subdivision (e), the licensee shall have the burden of proof that the denial was justified in that it was reasonable and made in good faith. If the licensee fails to sustain the burden of proof, the licensee shall not be entitled to a deficiency.

SEC. 7. Section 24005 of the Financial Code is amended to read:

24005. "Charges" do not include any of the following:

(a) Commissions received as a licensed insurance agent or broker in connection with insurance written as provided in Section 24458.

(b) Amounts not in excess of the amounts specified in subdivision (c) of Section 3068 of the Civil Code paid to holders of possessory liens, imposed pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code, to release motor vehicles which secure loans subject to this division.

(c) Court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on his or her loan.

(d) Fees paid to a licensee for a charge or credit card which entitles a cardholder to participate in an open end credit program, which fees are to cover administrative costs and are imposed upon the issuance of the charge or credit card and on annual renewal dates or anniversary dates thereafter.

(e) Amounts received by a licensee from a seller, from whom the borrower obtains money, goods, labor, or services on credit, in connection with a transaction under an open end credit program which are paid or deducted from the loan proceeds paid to the seller at the direction of the borrower and which are an obligation of the seller to the licensee for the privilege of allowing the seller to participate in the licensee's open end credit program. Amounts received by a licensee from a seller pursuant to this subdivision may not exceed 6 percent of the loan proceeds paid to the seller at the direction of the borrower.

(f) Actual fees not exceeding one hundred fifty dollars ($150) paid in connection with the repossession of a motor vehicle to repossession agencies licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code provided the licensee complies with Sections 24465 and 24465.5.

SEC. 8. Section 24465 is added to the Financial Code, to read:

24465. (a) This section applies to a loan secured in whole or in part by a lien on a motor vehicle as defined by subdivision (k) of Section 2981 of the Civil Code.

(b) Any provision in any loan contract to the contrary notwithstanding, at least 15 days' written notice of intent to dispose of a repossessed or surrendered motor vehicle must be given to all persons liable on the loan. The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the persons liable on the loan. Except as otherwise provided in Section 2983.8 of the Civil Code, those persons shall be liable for any deficiency after disposition of the repossessed or surrendered motor vehicle only if the notice prescribed by this section is given within 60 days of repossession or surrender and does all of the following:

(1) Sets forth that those persons shall have a right to redeem the motor vehicle by paying in full the indebtedness evidenced by the loan note until the expiration of 15 days from the date of giving or mailing the notice, provides an itemization of the loan balance and of any costs and fees authorized by this division, and sets forth the computation or estimate of the amount of any credit for unearned finance charges or canceled insurance as of the date of the notice.

(2) States either that there is a conditional right to reinstate the loan until the expiration of 15 days from the date of giving or mailing the notice and all the conditions precedent thereto or that there is no right of reinstatement and provides a statement of reasons therefor.

(3) States that, upon written request, the licensee shall extend for an additional 10 days the redemption period or, if entitled to the conditional right of reinstatement, both the redemption and reinstatement periods. The licensee shall provide the proper form for applying for these extensions with the substance of the form being limited to the extension request, spaces for the requesting party to sign and date the form, and instructions that it must be personally served or sent by certified or registered mail, return receipt requested, to a person or office and address designated by the licensee and received before the expiration of the initial redemption and reinstatement periods.

(4) Discloses the place at which the motor vehicle will be returned to the persons liable on the loan upon redemption or reinstatement.

(5) Designates the name and address of the person or office to whom payment shall be made.

(6) States the licensee's intent to dispose of the motor vehicle upon the expiration of 15 days from the date of giving or mailing the notice, or if by mail and either the place of deposit in the mail or the place of address is outside of this state, the period shall be 20 days instead of 15 days, and further, that upon written request to extend the redemption period and any applicable reinstatement period for 10 days, the licensee shall, without further notice, extend the period accordingly.

(7) Informs the persons liable on the loan that, upon written request, the licensee shall furnish a written accounting regarding the disposition of the motor vehicle as provided for in subdivision (c). The licensee shall advise them that the request must be personally served or sent by first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the licensee.

(8) Includes notice, in at least 10-point bold type if the notice is printed, reading as follows: "NOTICE. YOU MAY BE SUBJECT TO SUIT AND LIABILITY IF THE AMOUNT OBTAINED UPON DISPOSITION OF THE VEHICLE IS INSUFFICIENT TO PAY THE LOAN BALANCE AND ANY OTHER AMOUNTS DUE."

(c) Unless automatically provided to the borrower within 45 days after the disposition of the motor vehicle, the licensee shall provide to any person liable on the loan within 45 days after their written request, if the request is made within one year after the disposition, a written accounting regarding the disposition. The accounting shall itemize:

(1) The gross proceeds of the disposition.

(2) The reasonable and necessary costs and fees authorized by this division incurred in repossessing the motor vehicle.

(3) The satisfaction of indebtedness secured by any subordinate lien or encumbrance on the motor vehicle if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the licensee, the holder of a subordinate

lien or encumbrance must seasonably furnish reasonable proof of its interest, and unless it does so, the seller or holder need not comply with its demand.

(d) In all sales which result in a surplus, the licensee shall furnish an accounting as provided in subdivision (c) whether or not requested by the borrower. The surplus shall be returned to the borrower within 45 days after the sale is conducted.

SEC. 9. Section 24465.5 is added to the Financial Code, to read:

24465.5. (a) This section applies to a loan secured in whole or in part by a lien on a motor vehicle as defined by subdivision (k) of Section 2981 of the Civil Code.

(b) In the absence of default in the performance of any of the borrower's obligations under the loan, the licensee may not accelerate the maturity of any part or all of the amount due thereunder or repossess the motor vehicle.

(c) If, after default by the borrower, the licensee repossesses or voluntarily accepts surrender of the motor vehicle, any person liable on the loan shall have a right to reinstate the loan and the licensee shall not accelerate the maturity of any part or all of the loan prior to the expiration of the right to reinstate, unless the licensee reasonably and in good faith determines that:

(1) The borrower or any other person liable on the loan by omission or commission intentionally provided false or misleading information of material importance on his or her credit application.

(2) The borrower or any other person liable on the loan in order to avoid repossession has concealed the motor vehicle or removed it from the state.

(3) The borrower or any other person liable on the loan has committed or threatens to commit acts of destruction, or has failed to take care of the motor vehicle in a reasonable manner, so that the motor vehicle has or may become substantially impaired in value.

(d) Exercise the right to reinstate the loan shall be limited to once in any 12-month period and twice during the term of the loan.

(e) The provisions of this subdivision shall govern the method by which a loan shall be reinstated with respect to curing events of default which were a ground for repossession or occurred subsequent to repossession.

(1) Where the default is the result of the borrower's failure to make any payment due under the loan, the borrower or any other person liable on the loan shall make the defaulted payments and pay any applicable delinquency charges.

(2) Where the default is the result of the borrower's failure to keep and maintain the motor vehicle free from all encumbrances and liens of every kind, the borrower or any other person liable on the loan shall either satisfy all the encumbrances and liens or, in the event the licensee satisfies the encumbrances and liens, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.

(3) Where the default is the result of the borrower's failure to

keep and maintain insurance on the motor vehicle, the borrower or any other person liable on the loan shall either obtain the insurance or, in the event the licensee has obtained the insurance, the borrower or any other person liable on the loan shall reimburse the licensee for premiums paid and all reasonable costs and expenses incurred therefor.

(4) Where the default is the result of the borrower's failure to perform any other obligation under the loan, unless the licensee has made a good faith determination that the default is so substantial as to be incurable, the borrower or any other person liable on the loan shall reimburse the licensee for all reasonable costs and expenses incurred therefor.

(5) Additionally, the borrower or any other person liable on the loan shall reimburse the licensee for actual fees not exceeding one hundred fifty dollars ($150) paid in connection with the repossession of a motor vehicle to a repossession agency licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code.

(f) If the licensee denies the right to reinstatement under subdivision (c) or paragraph (4) of subdivision (e), the licensee shall have the burden of proof that the denial was justified in that it was reasonable and made in good faith. If the licensee fails to sustain the burden of proof, the licensee shall not be entitled to a deficiency.

CHAPTER 227

An act to amend Sections 1805.1 and 1810.2 of the Civil Code, relating to consumer credit.

[Approved by Governor July 15, 1985 Filed with Secretary of State July 15, 1985]

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

SECTION 1. Section 1805.1 of the Civil Code, as amended by Section 1 of Chapter 1157 of the Statutes of 1983, 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) 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, 1988, and as of that date is repealed.

SEC. 2. Section 1805.1 of the Civil Code, as amended by Section 2 of Chapter 1157 of the Statutes of 1983, 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, 1988.

SEC. 3. Section 1810.2 of the Civil Code, as amended by Section 3 of Chapter 1157 of the Statutes of 1983, 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 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, 1988, and as of that date is repealed.

SEC. 4. Section 1810.2 of the Civil Code, as amended by Section 4 of Chapter 1157 of the Statutes of 1983, 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, 1988.

CHAPTER 228

An act relating to agricultural pest control, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1985 Filed with Secretary of State July 22, 1985]

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

SECTION 1. The sum of six hundred thousand dollars ($600,000) is hereby appropriated from the General Fund to the Department of Food and Agriculture to carry out its duties relating to eradication of the apple maggot pursuant to Section 5 of Chapter 77 of the Statutes of 1984.

SEC. 2. The Department of Food and Agriculture shall prepare a report on the status of its efforts to carry out the requirements of

Section 5 of Chapter 77 of the Statutes of 1984. The report shall be submitted to the Chairpersons of the Assembly Committee on Agriculture and the Senate Committee on Agriculture and Water Resources on or before January 1, 1986.

SEC. 3. The Legislature finds and declares that the funds appropriated pursuant to Section 1 of this act meet the condition prescribed in provision 4 of Item 8570-001-001 of Chapter 111 of the Statutes of 1985, thereby authorizing the Department of Food and Agriculture to expend up to two million dollars ($2,000,000) of the funds appropriated pursuant to category (b) of that item for eradication of the apple maggot.

SEC. 4. The Director of Food and Agriculture shall report to the Chairperson of the Joint Legislative Budget Committee on whether or not it is possible to eradicate the apple maggot. This report shall be prepared and delivered as soon as possible and, in any event, not later than June 30, 1986.

SEC. 5. Any funds appropriated for eradication of the apple maggot pursuant to this act, Chapter 111 of the Statutes of 1985, or any other act may not be expended during the 1985–86 fiscal year any sooner than 30 days after notification in writing to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislature Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each case determine, regarding why the expenditure is needed, how the funds will be expended, a breakdown of the expenditures, and a report on how funds expended during the 1984–85 fiscal year were expended for purposes of eradication of the apple maggot.

SEC. 6. This act is an urgency statute necessary for the 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 apple maggot is a serious pest which threatens the apple industry. In order to implement an effective eradication program and to prevent economic loss to the general economy of the State of California, it is necessary that this act take effect immediately.

CHAPTER 229

An act to amend Section 870 of the Code of Civil Procedure, relating to validating public proceedings.

[Approved by Governor July 20, 1985 Filed with Secretary of State July 22, 1985]

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

SECTION 1. Section 870 of the Code of Civil Procedure is amended to read:

870. (a) The judgment, if no appeal is taken, or if taken and the judgment is affirmed, shall, notwithstanding any other provision of law including, without limitation, Sections 473 and 473.5, thereupon become and thereafter be forever binding and conclusive, as to all matters therein adjudicated or which at that time could have been adjudicated, against the agency and against all other persons, and the judgment shall permanently enjoin the institution by any person of any action or proceeding raising any issue as to which the judgment is binding and conclusive.

(b) Notwithstanding any other provision of law including, without limitation, Section 901 and any rule of court, no appeal shall be allowed from any judgment entered pursuant to this chapter unless a notice of appeal is filed within 60 days after the notice of entry of the judgment, or, within 60 days after the entry of the judgment if there is no answering party.

CHAPTER 230

An act to amend Section 44018 of the Health and Safety Code, relating to vehicle inspections.

[Approved by Governor July 20, 1985 Filed with Secretary of State July 22, 1985]

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

SECTION 1. Section 44018 of the Health and Safety Code is amended to read:

44018. (a) The motor vehicle inspection program may include advisory safety equipment maintenance checks, fuel efficiency checks, or both, on the motor vehicle if the department finds that cost-effective methods for conducting those checks exist and that the cost of the inspection to the vehicle owner due to the additional checks would not be increased by more than 10 percent. The department shall specify the equipment to be checked and the procedures for conducting those checks.

(b) Notwithstanding subdivision (a), a motor vehicle sold at retail by a lessor-dealer licensed pursuant to Chapter 3.5 (commencing with Section 11600), or a dealer licensed pursuant to Chapter 4 (commencing with Section 11700), of Division 5 of the Vehicle Code shall not be subject to an advisory safety equipment maintenance check pursuant to this section.

CHAPTER 231

An act to amend Section 116 of the Insurance Code, relating to insurance.

[Approved by Governor July 20, 1985. Filed with Secretary of State July 22, 1985.]

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

SECTION 1. Section 116 of the Insurance Code is amended to read:

116. (a) Automobile insurance includes insurance of automobile owners, users, dealers, or others having insurable interests therein, against hazards incident to ownership, maintenance, operation and use of automobiles, other than loss resulting from accident or physical injury, fatal or nonfatal, to, or death of, any natural person.

(b) Automobile insurance also includes any contract of warranty, or guaranty which promises service, maintenance, parts replacement, repair, money or any other indemnity in event of loss of or damage to a motor vehicle or any part thereof from any cause, including loss of or damage to or loss of use of the motor vehicle by reason of depreciation, deterioration, wear and tear, use, obsolescence or breakage if made by a warrantor or guarantor who or which as such is doing an insurance business.

(c) The making of a contract covering only defects in material and workmanship, which may include towing and substitute transportation, in exchange for a separately stated charge where it is merely incidental to the business of selling or leasing automobiles, shall not be deemed insurance, provided, that the maker of the contract has an insurance policy with an admitted automobile insurer providing coverage for the making of those contracts.

The policy shall include a loss payee endorsement that provides coverage to any lending institution as its interest may appear. In addition, the contract shall conspicuously state the name and address of the licensed underwriting insurer and contain a statement that the holder shall be entitled to make a direct claim against that insurer upon the failure of the maker to pay any claim within sixty days after proof of loss has been filed with the maker. The requirements of this section shall not apply where the maker is a manufacturer, distributor, or importer of automobiles.

(d) The doing or proposing to do any business in substance equivalent to the business described in this section in a manner designed to evade the provisions of this section is the doing of an insurance business.

CHAPTER 232

An act to amend Sections 12540 and 12541 of the Water Code, relating to the Colorado River Board.

[Approved by Governor July 20, 1985. Filed with Secretary of State July 22, 1985.]

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

SECTION 1. Section 12540 of the Water Code is amended to read:

12540. From a list of not less than two persons submitted to it by the commissioner, the board shall appoint an executive director, whose duties shall be as required by the commissioner and by the board.

SEC. 2. Section 12541 of the Water Code is amended to read:

12541. The board may fix the compensation of the executive director.

CHAPTER 233

An act to amend Section 374 of the Code of Civil Procedure, relating to real property.

[Approved by Governor July 20, 1985 Filed with Secretary of State July 22, 1985]

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

SECTION 1. Section 374 of the Code of Civil Procedure is amended to read:

374. An owners' association established in a common interest subdivision consisting of condominiums, as defined in Section 783 of the Civil Code, or of a community apartment project, as defined in Section 11004 of the Business and Professions Code, an undivided interest subdivision project, as defined in Section 11000.1 of the Business and Professions Code, or a planned development, as defined in Section 11003 of the Business and Professions Code, shall have standing to institute, defend, settle, or intervene in litigation arbitration, mediation, or administrative proceedings in its own name, as the real party in interest and without joining with it the individual owners of the common interest subdivision, in matters pertaining to the following:

(a) Enforcement of the governing documents of the common interest subdivision.

(b) Damage to the commonly owned lots, parcels, areas, or spaces.

(c) Damage to the individually owned lots, parcels, areas, or spaces which the owners' association is obligated to maintain or repair.

(d) Damage to the individually owned lots, parcels, areas, or spaces which arises out of, or is integrally related to, damage to the commonly owned lots, parcels, areas, or spaces or to the individually owned lots, parcels, areas, or spaces which the association is obligated to maintain or repair.

SEC. 2. Section 374 of the Code of Civil Procedure, as added by Assembly Bill 314 of the 1985–86 Regular Session of the Legislature, is amended to read:

374. An association established to manage a common interest development pursuant to Section 1363 of the Civil Code shall have standing to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name, as the real party in interest and without joining with it the individual owners of the common interest development, in matters pertaining to the following:

(a) Enforcement of the governing documents.

(b) Damage to the common areas.

(c) Damage to the separate interests, which the association is obligated to maintain or repair.

(d) Damage to the separate interests, which arises out of, or is integrally related to, damage to the common areas or to the separate interests that the association is obligated to maintain or repair.

SEC. 3. Section 2 of this bill incorporates changes in Section 374 of the Code of Civil Procedure proposed by both this bill and AB 314. Section 2 shall only become operative if all of the following occur: (1) both bills are enacted and become effective on or before January 1, 1986, (2) this bill amends Section 374 of the Code of Civil Procedure, (3) AB 314 repeals and adds Section 374 of the Code of Civil Procedure, and (4) this bill is enacted after AB 314, in which case Section 1 shall not become operative.

CHAPTER 234

An act to amend Sections 3201 and 3218 of the Fish and Game Code, relating to fish and game.

[Approved by Governor July 20, 1985 Filed with Secretary of State July 22, 1985]

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

SECTION 1. Section 3201 of the Fish and Game Code is amended to read:

3201. No person shall sell the carcass of any domesticated game bird or mammal without first obtaining a domesticated game

breeder's license from the department. The department may issue such a license upon terms and conditions as the commission may prescribe, and the commission may at any time revoke such a license for sufficient cause.

SEC. 2. Section 3218 of the Fish and Game Code is amended to read:

3218. Any license issued under this article may be revoked by the commission upon conviction of the licensee of a violation of any provision of this code, and no similar license may be issued to the licensee during the same license year.

CHAPTER 235

An act to amend Section 19619 of, and to add and repeal Section 19531.7 of, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1985. Filed with Secretary of State July 22, 1985]

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

SECTION 1. Section 19531.7 is added to the Business and Professions Code, to read:

19531.7. Notwithstanding subdivision (b) of Section 19531 and Section 19531.6, the maximum number of racing weeks which may be allocated by the board for harness horse racing during the 1985 calendar year other than at the California Exposition and State Fair or a county or district agricultural association fair shall be 15 weeks in the northern zone and 25 weeks in the southern zone.

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. Section 19619 of the Business and Professions Code is amended to read:

19619. (a) Since the purpose of this chapter is to encourage agriculture and the breeding of horses in this state, a California Standardbred Sires Stakes Program is hereby established for standardbred horses bred in the State of California.

(b) Horses eligible to race in the California Standardbred Sires Stakes Program shall be the offspring of any registered California standardbred stallion standing in California during an entire breeding season.

(c) Responsibility for the California Standardbred Sires Stakes Program is with the board. Administration of the California Standardbred Sires Stakes Program is the responsibility of the California Standardbred Sires Stakes Committee. The California Standardbred Sires Stakes Committee shall consist of six members

and two alternates, with three members and one alternate selected from and by each of the following organizations:

(1) The harness horsemen's organization contracting with the associations with respect to the conduct of racing meetings.

(2) The organization responsible for the registration of California-bred harness horses.

Administrative expenses of the committee in any given year shall not exceed 4 percent of that year's income to the California Standardbred Sires Stakes Program, and all expenses shall be approved by the board.

(d) The board may do all that is necessary to ensure that the California Standardbred Sires Stakes Program is appropriately administered and shall prepare, issue, and adopt rules and regulations providing for all of the following:

(1) Classes and divisions of races, eligibility of horses and owners therefor, and prizes and awards to be awarded.

(2) Nominating, sustaining, and entry fees for horses and races.

(3) Registration and certification of California stallions, mares bred to those stallions, and foals produced thereby.

(4) Any other matter which is considered to be necessary and appropriate for the proper administration and implementation of the California Standardbred Sires Stakes Program.

(e) The funds for the California Standardbred Sires Stakes Program made available pursuant to Section 19491.7 and the nominating, sustaining, and entry fees provided for in this section shall be deposited with the California Standardbred Sires Stakes Committee. The committee shall distribute the funds deposited with it in accordance with this section for the purposes of the California Standardbred Sires Stakes Program in the manner approved by the board.

(f) Pursuant to Section 19491.7, the breakage used to fund the California Standardbred Sires Stakes Program and to increase purses shall be divided in accordance with the following criteria:

	California Standardbred Sires Stakes Program	Purses
1977	10%	90%
1978	20%	80%
1979	25%	75%
1980	50%	50%
January 1 to June 30, 1981	75%	25%
July 1, 1981, and thereafter	100%	0%

(g) An amount equal to 10 percent of the total purses raced for in the California sires stakes races, excluding amounts derived from

nomination, sustaining, and entry fees, shall be awarded to the standardbred breeders of the horses that earned purse money in the California standardbred sires stakes races in proportion to the amount of purse money earned by each horse.

(h) An amount equal to 2 percent of the total purses raced for in the California sires stakes races, excluding amounts derived from nomination, sustaining, and entry fees, shall be awarded to the owners of the registered California standardbred stallions that sired horses that earned purse money in the California standardbred sires stakes races in proportion to the amount of purse money earned by each horse so sired.

(i) Notwithstanding subdivision (b), the board may establish a series of races for two-year-old and three-year-old fillies that are wholly owned by a California resident on the first day of January of the year that they become two year olds and are wholly owned by a California resident on the day of the race.

(j) The balance of the remaining funds, including nominating, sustaining, and entry fees, and after the expenditures described in subdivisions (e), (g), (h), and (i) have been made, shall be allocated to purses for races comprising the California Standardbred Sires Stakes Program.

(k) The schedule of races that shall comprise the California Standardbred Sires Stakes Program during each year shall be set by the board in accordance with the following criteria:

(1) California standardbred sires stakes races shall be scheduled for two-year-old and three-year-old trotters and two-year-old and three-year-old pacers at the discretion of the California Standardbred Sires Stakes Committee, except that no two-year-old races shall be held prior to the first day of June of any year. Races for four-year-old or aged trotters and four-year-old or aged pacers may also be scheduled.

(2) Two- and three-year-old races shall be divided into colt and filly divisions.

(3) Base purses for each set of races conducted during any given year at any race meeting shall be determined by the California Standardbred Sires Stakes Committee but, with the exception of championship races which may be scheduled and excluding purses derived from nomination, sustaining, and entry fees, shall be equal for all two-year-old and three-year-old races regardless of sex and gait, except that, if divisions are raced, the base purse for each division shall be no less than 75 percent of the original base purse and, if elimination heats are raced, the base purse shall be determined by the California Standardbred Sires Stakes Committee designated pursuant to subdivision (c). As used in this section, a set of races means one final race for each eligible age, sex, and gait, as scheduled by the California Standardbred Sires Stakes Committee.

(4) In each division of each race in the California standardbred sires stake races, the purse shall be divided in the following manner:

(i) Five or more starters	
1st	50%
2nd	25%
3rd	12%
4th	8%
5th	5%
(ii) Four starters	
1st	55%
2nd	25%
3rd	12%
4th	8%
(iii) Three starters	
1st	55%
2nd	30%
3rd	15%
(iv) Two starters	
1st	65%
2nd	35%
(v) One starter	
1st	100%

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

In order for the provisions of this act to apply to this year's racing season, it is necessary that this act take effect immediately.

CHAPTER 236

An act to add Section 23000.5 to the Education Code, to amend Sections 3513, 19822.5, 20022, and 21382.4 of, to add Sections 20017.88, 22013.85, and 22794.5 to, and to add and repeal Section 20022.2 of, the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 25, 1985]

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

SECTION 1. Section 23000.5 is added to the Education Code, to read:

23000.5. Notwithstanding any other provision of law, the state may pick up all or a portion of the normal contributions required to be paid by a state employee who is a member of the State Teachers' Retirement System. The pick up of member contributions shall be through a salary reduction program pursuant to Section 414(h) (2) of

the Internal Revenue Code. These contributions shall be reported as employer-paid member contributions, and shall be credited to member accounts.

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 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, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than the auditing staff, employees of the Legislative Counsel Bureau, employees of the board, conciliators employed by the State Conciliation Service within the Department of Industrial Relations, and intermittent athletic inspectors who are employees of the State Athletic Commission.

(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. 3. Section 19822.5 of the Government Code is amended to read:

19822.5. There is hereby established a Child Care Fund to which funds shall be allocated from the amount appropriated in the annual Budget Act for employee compensation. The Child Care Fund shall be used to encourage development of child care programs for dependent children of state employees. These programs may include financial assistance to aid in the development of child care centers administered by either nonprofit corporations formed by state employees or other child care providers.

The Child Care Fund shall be administered by the Department of Personnel Administration.

Upon the determination of the department, the funding shall include, but not be limited to, cash grants.

The amount to be allocated and expended annually, from the funds available for compensation increases, shall be determined by the department. Notwithstanding Section 13340, the Child Care Fund shall be available for expenditure without regard to fiscal year through June 30, 1991, unless otherwise extended by statute enacted prior to that date.

SEC. 4. Section 20017.88 is added to the Government Code, to read:

20017.88. "State safety member" also includes members employed in the positions with the classification of Vocational Instructor, Barber Shop Practices, Correctional Facility (class code 2441).

Any person employed in the above classification may elect, within 90 days of notification by the board, to remain subject to the miscellaneous service retirement benefit by filing an irrevocable

notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

This section shall not become applicable to any member included in this classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act (42 U.S.C. Sec. 418(d) (5) (A)).

SEC. 5. Section 20022 of the Government Code is amended to read:

20022. (a) "Compensation" includes: (1) the remuneration paid in cash out of funds controlled by the employer, plus the monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished a member by his or her employer in payment for his or her services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence; (2) any payments in cash by his or her employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of the United States; (3) any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 8 (commencing with Section 18310) of Part 1 of Division 5 of Title 2 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5; (4) any disability or workers' compensation payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (5) any special compensation for performing normally required duties such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out of class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, split shift differential and substitute differential in Sections 45196 and 88196 of the Education Code, except for those items excluded from compensation by Section 20022.2; (6) compensation for uniforms, except as provided in Section 20022.1; (7) any other payments the board may determine to be compensation.

(b) "Compensation" shall not include: (1) the provision by an employer of any medical or hospital service or care plan or insurance plan (other than the purchase of annuity contracts referred to in this section) for its employees, any contribution by an employer to meet the premium or charge for such plan, or any payment into a private fund to provide health and welfare benefits for its employees; (2) any payment by an employer of the employee portion of taxes imposed by the Federal Insurance Contribution Act; (3) amounts not available for payment of salaries and which are applied by an employer for the purchase of annuity contracts including those

which meet the requirements of Section 403(b) of the Internal Revenue Code of the United States; (4) the bonus sum provided for low-paid state employees in the Budget Act of 1975; (5) any benefits paid pursuant to Chapter 3.6 (commencing with Section 18135) of Part 1 of this division; (6) employers' payments which are to be credited as employee contributions for benefits provided by this system, or employers' payments which are to be credited to employee accounts in deferred compensation plans; provided, that amounts deducted from a member's wages for participation in a deferred compensation plan pursuant to paragraph (3) of subdivision (a) shall not be considered to be employer's payments; (7) payments for lump-sum vacation or compensating time off upon termination of employment; (8) final settlement pay; (9) lump-sum sick leave payment; (10) payments for overtime, including pay in lieu of vacation or holiday; (11) special compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, bonuses for duties performed after regular work shift; (12) those items excluded from compensation by Section 20022.2; and (13) any other payments the board may determine not to be compensation.

SEC. 6. Section 20022.2 is added to the Government Code, to read:

20022.2. "Compensation" shall not include, in addition to those items specified in Section 20022, all of the following:

(a) One time cash-out of eight hours of educational leave for all eligible employees in bargaining unit 3, except for exempt employees of the special schools of the Department of Education and the California Maritime Academy.

(b) Education differential for employees in bargaining unit 17.

(c) Safety incentive award, cash bonus pilot program, tool allowance, overtime meal allowance payments, Class I and Class II driver's license medical examination payments, and health and safety incentive award for employees in bargaining unit 12.

This section shall remain in effect only until June 30, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before June 30, 1987, deletes or extends that date.

SEC. 7. Section 21382.4 of the Government Code is amended to read:

21382.4. (a) In lieu of benefits provided in Section 21382 or Section 21382.2, if the death benefit provided by Section 21361 is payable on account of a state member's death which occurs under circumstances other than those described in subdivision (a)(5) of Section 21360, or if an allowance under Section 21365.5 is payable, the payment pursuant to subdivision (b) shall be made in the following order of priority:

(1) The surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 22 years of age, or are incapacitated because of disability which began before and has continued without

interruption after attainment of that age.

(2) The guardian of surviving unmarried children, including stepchildren, of the member who are 22 years of age or are so incapacitated.

(3) The surviving wife or surviving husband of the member, who does not qualify under paragraph (1).

(4) Each surviving parent of the member.

(b) Regardless of the benefit provided by Section 21361 and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable 1959 survivor allowance, under the conditions stated and from contributions of the state, shall be paid:

(1) A widow or a widower who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, shall be paid seven hundred dollars ($700) per month if there is one such child, or eight hundred forty dollars ($840) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of three hundred fifty dollars ($350) per month, shall be divided equally among all those children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if the surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member who are under 22 years of age or are so incapacitated, or if there are such children not in the care of the spouse, the children shall be paid an allowance as follows:

(A) If there is only one child, the child shall be paid three hundred fifty dollars ($350) per month.

(B) If there are two children, the children shall be paid seven hundred dollars ($700) per month divided equally between them.

(C) If there are three or more children, the children shall be paid eight hundred forty dollars ($840) per month divided equally among them.

(3) A widow or a widower who has attained or attains the age of 62 years, and, with respect to both widow and widower, who was married to the member prior to the occurrence of the injury or onset of the illness which resulted in death and has not remarried subsequent to the member's death, shall be paid three hundred fifty dollars ($350) per month. No allowance shall be paid under paragraph (1), or while an allowance is being paid under subparagraph (C) of paragraph (2). The allowance paid under this paragraph shall be one hundred forty dollars ($140) per month while an allowance is being paid under subparagraph (B) of paragraph (2).

(4) If there is no surviving spouse or surviving child who qualifies for the 1959 survivor allowance, or if the surviving spouse dies or

remarries and there is no such surviving child, or if the surviving spouse dies or remarries and the children die or marry or, if not incapacitated, reach 22 years of age, each of the member's dependent parents who has attained or attains the age of 62 years, and who received at least one-half of his support from the member at the time of the member's death, shall be paid three hundred fifty dollars ($350) per month.

(c) "Stepchildren," for purposes of this section, shall include only stepchildren of the member living with the member in a regular parent-child relationship at the time of the death of the member.

(d) This section shall apply to beneficiaries of state members receiving 1959 survivor allowances on January 1, 1985. All assets and liabilities of all state agencies and their employees on account of benefits provided to beneficiaries specified in this subdivision shall be pooled into a single account. The board shall transfer from the reserve for 1959 survivor contributions retained in the retirement fund, an amount sufficient to pay the cost of the increased benefits provided by this subdivision for beneficiaries of members who died on or before December 31, 1984.

(e) This section shall not apply to beneficiaries with respect to the death of a state member occurring on or after January 1, 1985, unless provided for in a memorandum of understanding reached pursuant to Section 3517.5, or authorized by the Director of the Department of Personnel Administration for classifications of state employees who are excluded from, or not subject to, collective bargaining. The memorandum of understanding adopting this section shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature as provided by law.

(f) This section shall apply, with respect to benefits payable on and after January 1, 1985, to school members, except that it shall not apply, without contract amendment, with respect to safety members who became members after January 1, 1985. All assets and liabilities of all school employers, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of school members employed by a school employer.

(g) This section shall apply to members of a contracting agency which, by amending its contract, first elects effective on or after January 1, 1985, to make this article applicable to local members employed by the agency. On and after January 1, 1985, contracting agencies already subject to Section 21382 or Section 21382.2 may elect by contract amendment to be subject to this section. All assets and liabilities of all contracting agencies subject to this section, and their employees, on account of benefits provided under this article shall be pooled into a single account, and a single employer rate shall be established to provide benefits under this section on account of

members employed by a contracting agency which is subject to this section.

(h) The rate of contribution of an employer subject to this section shall be figured using the term insurance valuation method. If a contracting agency which is subject to this section has a surplus in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, such surplus will be applied to reduce its rate of contribution. If a contracting agency which is subject to this section has a deficit in its 1959 survivor benefit account as of the date the contracting agency becomes subject to this section, its rate of contribution will be increased until the deficit is paid.

SEC. 8. Section 22013.85 is added to the Government Code, to read:

22013.85. "Policeman" as used in this part also includes persons employed in the classification listing in Section 20017.88, provided the designation is not contrary to any definition, ruling, or regulation relating to the term "policeman" issued by the federal agency for the purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 9. Section 22794.5 is added to the Government Code, to read:

22794.5. Prior to the approval of benefits and rate readjustments authorized under Section 22794, the board shall notify the Department of Personnel Administration of the changes in writing.

SEC. 10. The provisions of the following memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations on the dates listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit 1 - California State Employees' Association, dated July 2, 1985.

(b) Unit 3 - California State Employees' Association, dated July 2, 1985.

(c) Unit 4 - California State Employees' Association, dated July 2, 1985.

(d) Unit 10 - California Association of Professional Scientists, dated July 3, 1985.

(e) Unit 11 - California State Employees' Association, dated July 2, 1985.

(f) Unit 12 - California State Employees' Association, dated July 2, 1985.

(g) Unit 13 - International Union of Operating Engineers, Stationary Engineers Division, dated July 1, 1985.

(h) Unit 14 - California State Employees' Association, dated July 2, 1985.

(i) Unit 15 - California State Employees' Association, dated July 2, 1985.

(j) Unit 16 - Union of American Physicians and Dentists, dated July 5, 1985.

(k) Unit 17 - California State Employees' Association, dated July 2, 1985.

(*l*) Unit 19 - American Federation of State, County, and Municipal Employees, dated July 1, 1985.

(m) Unit 20 - California State Employees' Association, dated July 2, 1985.

SEC. 11. Any provision in a memorandum of understanding approved by Section 10 which is scheduled to take effect on or after July 1, 1986, and which requires the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature.

SEC. 12. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that requires the expenditure of funds shall become effective even if the memorandum of understanding is approved by the Legislature in legislation other than the annual Budget 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 for this act to be applicable for the entire 1985–86 fiscal year, and to facilitate the orderly administration of the system of providing health care plans, it is necessary that this act take effect immediately.

CHAPTER 237

An act to amend Section 1 of Chapter 957 of the Statutes of 1983, relating to prisons, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1985. Filed with Secretary of State July 25, 1985]

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

SECTION 1. Section 1 of Chapter 957 of the Statutes of 1983 is amended to read:

SECTION 1. (a) Notwithstanding any other provision of law, the Department of Corrections is authorized to:

(1) Construct and establish minimum and medium security work-based prisons with a capacity of 2,400 inmates in the following manner:

(i) Two 1,200-bed facilities on the grounds of the present California Medical Facility at Vacaville.

(ii) Each such facility shall be functionally separate from other existing or planned prison facilities and shall consist of at least two major living units, each containing no more than 600 beds.

(2) Construct and establish two 500-bed medium security prisons, together with a service facility of lesser security with a capacity not in excess of 200 inmates, on state-owned property in Ione, or at a site partially owned by the state at Ione known as Mule Creek, or at an abandoned military facility other than Camp Roberts.

(b) The Department of Corrections shall develop each facility authorized by this section in a manner to provide all prisoners incarcerated therein the opportunity to work full time for the benefit of the state.

(c) The facilities authorized by the section shall be constructed, to the extent feasible, using the labor of prisoners.

(d) Any negative impact on community water, sewer, and housing created by a prison authorized in this section shall be mitigated by the department during construction of the facility.

SEC. 1.5. (a) The Department of Corrections shall perform site suitability studies and evaluate the feasibility of constructing a prison in Del Norte County, in the vicinity of Crescent City, and report its findings to the Legislature. These studies may address, but shall not be limited to, the following: hydrology, archeology, geology, biology, seismology, traffic analysis, and engineering. The studies shall identify the proposed custody level of inmates at the proposed prison, the size of the proposed facility, and the work programs to be used at the proposed facility.

(b) In performing the studies required by this section, the Department of Corrections shall hold public hearings regarding proposed sites.

(c) The Department of Corrections shall submit the results of the studies required by subdivision (a) to the Joint Legislative Prison Committee and the fiscal committees of the Senate and Assembly for review and approval.

(d) Subject to the provisions of Section 7003 of the Penal Code, but notwithstanding any other provision of law, the Department of Corrections is hereby authorized, depending on the results of a feasibility study and the approvals required by subdivision (c), to construct a prison in Del Norte County, in the vicinity of Crescent City.

SEC. 2. The sum of three hundred fifty-nine thousand dollars ($359,000) of the unencumbered balance of the appropriation made by subdivision (a) of Section 7 of Chapter 1743 of the Statutes of 1984, shall revert, on the effective date of this act, to the unappropriated surplus of the 1984 Prison Construction Fund.

SEC. 3. There is hereby appropriated from the 1984 Prison Construction Fund to the Department of Corrections, the sum of three hundred fifty-nine thousand dollars ($359,000), for site suitability studies, including, but not limited to, those for Del Norte County.

However, the appropriation made by this section shall not be available for expenditure sooner than 30 days after notification, in writing, by the Director of Corrections, that the expenditure of the

appropriation is necessary because existing funds appropriated to the Department of Corrections are unavailable, and the reason for that unavailability, to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

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 expedite new prison planning, it is necessary that this act go into immediate effect.

CHAPTER 238

An act to amend Section 1 of Chapter 700 of the Statutes of 1978, relating to health pilot projects, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 1 of Chapter 700 of the Statutes of 1978, as amended by Chapter 1059 of the Statutes of 1981, is amended to read:

Section 1. Under its pilot programs, the State Director of Health Services was required to establish a pilot program to compare patient treatment profiles and prior authorization as controls of overutilization. The Legislature finds that additional time is required to complete the evaluation of that pilot program. This established pilot program shall continue in Fresno and Madera Counties for purposes of carrying out this section. The State Director of Health Services shall report to the Legislature on or before December 31, 1985, the results of the evaluation of this program.

Providers of durable medical equipment who participate in the pilot program shall not supply durable medical equipment outside the geographic area of the program, unless the provider obtains prior authorization in the same manner as is required for nonparticipating providers located outside the geographic area of the program.

This section shall remain in effect only until June 30, 1987, and as of that date is repealed.

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 authority for an existing health pilot program does

not expire on June 30, 1985, it is necessary for this act to take effect immediately.

CHAPTER 239

An act to amend Section 1721 of the Labor Code, relating to employment.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 1721 of the Labor Code is amended to read:

1721. "Political subdivision" includes any county, city, district, public housing authority, or public agency of the state, and assessment or improvement districts.

CHAPTER 240

An act to amend Section 20045.5 of the Water Code, relating to California water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1985. Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 20045.5 of the Water Code is amended to read:

20045.5. The limitation contained in Section 20045 does not apply to bond issues of the Santa Margarita Water District or the Irvine Ranch Water District, or any of their respective improvement districts, which are secured by a policy of debt service insurance or other credit enhancement acceptable to the Treasurer.

SEC. 2. The Legislature finds and declares that there are special financial circumstances unique to the Irvine Ranch Water District and the Santa Margarita Water District which make the provisions of this act necessary and that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable.

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

If bonds of certain improvement districts of the Irvine Ranch

Water District can be assured of a satisfactory creditworthiness other than through adherence to the present assessed valuation limitation, these bonds can be sold with the bonds of other improvement districts meeting that limitation, thereby allowing all of these improvement districts to participate concurrently in certain regional facilities, with consequent reduction in cost. To afford the district the opportunity to lower the financial burden of debt service for the ratepayers and taxpayers in each of these improvement districts as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 241

An act to amend Section 4601 of the Labor Code, relating to workers' compensation.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 4601 of the Labor Code is amended to read:

4601. (a) If the employee so requests, the employer shall tender the employee one change of physicians. Upon request of the employee for a change of physicians, the maximum amount of time permitted by law for the employer or insurance carrier to provide the employee an alternative physician or, if requested by the employee, a chiropractor, shall be five working days from the date of the request. The employee is entitled, in any serious case, upon request, to the services of a consulting physician or chiropractor of his or her choice at the expense of the employer. The treatment shall be at the expense of the employer.

(b) If an employee requesting a change of physicians pursuant to subdivision (a) has notified his or her employer in writing prior to the date of injury that he or she has a personal chiropractor, the alternative physician provided, if requested by the employee, shall be the employee's personal chiropractor. For the purpose of this section, "personal chiropractor" means the employee's regular chiropractor licensed pursuant to Chapter 2 (commencing with Section 1000) of Division 2 of the Business and Professions Code, who has previously directed treatment of the employee, and who retains the employee's chiropractic treatment records, including his or her chiropractic history.

SEC. 2. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims

Fund.

SEC. 3. 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 242

An act to amend Section 20742 of the Government Code, relating to the Public Employees' Retirement System, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1985. Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 20742 of the Government Code is amended to read:

20742. Notwithstanding any other provision of this part, the state's contribution to the Public Employees' Retirement Fund during fiscal year 1985–86 is a sum equal to the percentages of compensation paid the following categories:

(a) 17.604 percent with respect to state miscellaneous members.

(b) 19.749 percent with respect to state industrial members.

(c) 20.518 percent with respect to state safety members.

(d) 24.868 percent with respect to state patrol members.

(e) 24.310 percent with respect to state peace officer/firefighter members.

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 state's employers' rates of contribution to the Public Employees' Retirement Fund for fiscal year 1985–86 may be expressed in the statutes on or before the commencement of fiscal year 1985–86, it is necessary that this act take effect immediately.

CHAPTER 243

An act to repeal and add Chapter 2.85 (commencing with Section 35565) of Part 5 of Division 13 of the Water Code, relating to water districts.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Chapter 2.85 (commencing with Section 35565) of Part 5 of Division 13 of the Water Code is repealed.

SEC. 2. Chapter 2.85 (commencing with Section 35565) is added to Part 5 of Division 13 of the Water Code, to read:

CHAPTER 2.85. PROVISIONS PERTAINING ONLY TO THE BORREGO WATER DISTRICT

35565. This chapter applies only to the Borrego Water District.

35565.1. The objectives of the district include all of the following:

(a) To provide for the control of flood and storm waters of the district and the surface or subsurface streams created by storm water runoff from sources outside of the district and to conserve all the waters for beneficial and useful purposes by spreading, storing, retaining, slowing, and causing those waters to percolate, either by natural or artificial means, into the soil strata.

(b) To protect from damage from those flood or storm waters the personal or real property within the district and the lives of the inhabitants thereof.

(c) To protect, preserve, and restore watersheds within or without the district.

35565.2. The district may acquire by grant, purchase, lease, gift, devise, contract, or condemnation, real or personal property of any kind, including land, structures, buildings, rights-of-way, or easements within or without the district, and may construct, operate, maintain, repair, and alter all projects, improvements, or facilities, within or outside of the district necessary or proper to carry out the objectives authorized by Section 35565.1.

Improvements or facilities include, but are not limited to, dams, levees, channels, conduits, canals, pipelines, reservoirs, spillways, ponds, or replenishment wells.

35565.3. The district may conduct technical investigations and prepare analyses, studies, and reports pertaining to water supply, water rights, erosion, control of floods, storm patterns, water basin supplies, replenishment methods, water usage and water quality, soil characteristics, and other matters relative and necessary to the objective set forth in Section 35565.1.

In order to carry out technical investigations, the district has the right of access to, and may, to the extent permitted by the California Constitution, enter upon, any lands within or without the district, with or without permission of the owner or owners of the land. The entry by the district or its authorized representative does not constitute, and does not give rise to, any cause of action in favor of the owners of the land, except for injuries resulting from negligence,

wantonness, or malice.

35565.4. For the purpose of providing mosquito abatement and vector control services to the lands and inhabitants of the district, and in addition to the powers contained in this division, the district may exercise any of the powers of a mosquito abatement district or vector control district as set forth in Article 4 (commencing with Section 2270) of Chapter 5 of Division 3 of the Health and Safety Code.

35565.5. Mosquito abatement and vector control and flood control services are lawful district purposes, and charges may be levied pursuant to Section 35470 to defray the expenses of those services.

35565.6. The district may establish zones of benefit for the purpose of providing mosquito abatement and vector control and flood control services. A zone may include the entire district, or any portion thereof, depending upon the need for, or level of, services provided. The charges authorized pursuant to Section 35565.5 may vary from zone to zone, and territory may be annexed to, or detached from, a zone.

35565.7. No zone shall be established, and no land shall be annexed to, or detached from, any existing zone, unless the board, by resolution, declares its intent to do so and holds a public hearing thereon at a specified time and place where all interested persons may appear and be heard. Notice of the hearing shall be given by publishing a copy of the resolution in a newspaper of general circulation published in the County of San Diego pursuant to Section 6066 of the Government Code.

SEC. 3. The provisions of this act are necessary because of the great need for flood control services within the area of the Borrego Water District. There is no other local governmental entity willing to provide these services to the people of the district. This problem is not common to all districts formed under this division. It is, therefore, declared that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable and that the enactment of this act as a special law is necessary for the solution of problems existing in the Borrego Water District.

CHAPTER 244

An act to amend Section 23200 of the Vehicle Code, relating to driving offenses.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 23200 of the Vehicle Code is amended to read:

23200. (a) In any case charging a violation of Section 23152 or 23153 and the offense occurred within five years of one or more separate violations of Section 23152 or 23153 which resulted in convictions, or one or more separate violations of Section 23103 as specified in Section 23103.5 which occurred on or after January 1, 1982, and resulted in one or more convictions, or any combination, or all, of those three provisions, the court shall not strike any separate conviction of those offenses for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time of imprisonment and the minimum fine, as provided in this chapter, or for purposes of avoiding revocation, suspension, or restriction of the privilege to operate a motor vehicle, as provided in this code.

(b) In any case charging a violation of Section 23152 or 23153, the court shall obtain a copy of the driving record of the person charged from the Department of Motor Vehicles and may obtain any records from the Department of Justice or any other source to determine if one or more separate violations of Section 23152 or 23153, or both, which resulted in one or more convictions, or one or more separate violations of Section 23103 as specified in Section 23103.5, which occurred on or after January 1, 1982, and resulted in one or more convictions, have occurred within five years of the charged offense. The court may obtain, and accept as rebuttable evidence, a printout from the Department of Motor Vehicles of the driving record of the person charged, maintained by electronic and storage media pursuant to Section 1801 for the purpose of proving those separate violations.

(c) If any separate convictions of violations of Section 23152 or 23153 are reported to have occurred within five years of the charged offense, the court shall notify each court where any of the separate convictions occurred for the purpose of enforcing terms and conditions of probation pursuant to Section 23207.

CHAPTER 245

An act to repeal and add Section 4750 of the Vehicle Code, relating to registration.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 4750 of the Vehicle Code is repealed.

SEC. 2. Section 4750 is added to the Vehicle Code, to read:

4750. The department shall refuse registration, or renewal or transfer of registration, upon any of the following grounds:

(a) The application contains any false or fraudulent statement.

(b) The required fee has not been paid.

(c) The registration, or renewal or transfer of registration, is prohibited by the requirements of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code.

(d) The owner of a heavy vehicle, which is subject to the heavy vehicle use tax imposed pursuant to Section 4481 of Title 26 of the United States Code, has not presented sufficient evidence, as determined by the department, that the tax for the vehicle has been paid pursuant to that section.

SEC. 3. Sections 1 and 2 of this act shall become operative when the Secretary of the Treasury prescribes the forms for the proof of payment of the heavy vehicle use tax, pursuant to subsection (d) of Section 141 of Title 23 of the United States Code.

CHAPTER 246

An act to add Section 33607 to the Health and Safety Code, relating to community redevelopment agencies.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 33607 is added to the Health and Safety Code, to read:

33607. A county may require a community redevelopment agency to reimburse the county for any expenses incurred by the county in performing any of the services required to be performed by the county for the redevelopment agency pursuant to Sections 33670, 33675, and 33676 for a project area as to which no payments are made by the agency to the county in accordance with subdivision (b) of Section 33401 and no agreement has been entered into and either of the following situations exist:

(a) A final redevelopment plan for the project area is adopted on or after January 1, 1986.

(b) A final redevelopment plan for the project area was adopted prior to January 1, 1986, but its boundaries are changed on or after January 1, 1986, to add land to, or to exclude land from, the project area. However, in the case of a project area which changes its boundaries on or after January 1, 1986, to add land to the project area,

the reimbursement shall relate only to expenses incurred by the county with respect to the added area.

CHAPTER 247

An act to add Section 53079 to the Government Code, relating to local public entities.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 53079 is added to the Government Code, to read:

53079. (a) "Local public entity," as used in this section, means any city or county, whether general law or chartered, district, public authority, public agency, or public corporation but does not include any entity of the state.

(b) If a local public entity requires any person, on or after January 1, 1986, to furnish a security, in the form of cash or a cashier's check made payable to the local public entity, to guarantee the performance of any act or agreement related to a construction project, and if the local public entity invests that cash or the proceeds of that check, the local public entity shall pay interest on all, or any portion, of the amount of the balance of the security deposit which is returned to the person who furnished the security if the security is held by the local public entity for more than 30 days. The local public entity shall pay interest on that amount. The minimum interest rate paid shall be the average rate of return earned by the local public entity on its investments during the four full calendar quarters last preceding the return of the security deposit, less 1 full percentage point. Interest shall be paid from the date the security is provided to the local public entity until the date that all, or any portion, of the balance of the security deposit is returned to the person who furnished the security.

(c) The Legislature finds and declares that the payment of interest by local public entities for security furnished, as described in subdivision (b), is a matter of statewide interest and concern and the Legislature intends by this section to occupy the field of this regulation.

CHAPTER 248

An act to repeal Chapter 7.8 (commencing with Section 25882) of Division 20 of the Health and Safety Code, relating to wire-core wicked candles.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Chapter 7.8 (commencing with Section 25882) of Division 20 of the Health and Safety Code is repealed.

CHAPTER 249

An act to repeal and add Section 66498.8 of the Government Code, relating to subdivisions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 66498.8 of the Government Code is repealed.

SEC. 2. Section 66498.8 is added to the Government Code, to read:

66498.8. (a) On or before January 1, 1986, a city, county, or city and county shall adopt ordinances or resolutions necessary or appropriate for the implementation of this chapter.

(b) If a city, county, or city and county receives a written request to implement this chapter, it shall adopt any ordinances or resolutions it determines necessary or appropriate to implement this chapter. The city, county, or city and county shall adopt the ordinances or resolutions not more than 120 days from the date the request is made and any fee is paid to cover the direct expenses the city, county, or city and county determines it will incur in processing the ordinances or resolutions. The city, county, or city and county may arrange, with the person making the request, to collect fees from subdividers filing vesting tentative maps and to reimburse the person requesting the ordinance or resolution for any costs so advanced by that person.

(c) The local agency may charge subdividers who file vesting tentative maps a fee in an amount sufficient to recover the direct costs associated with establishing and adopting ordinances or resolutions pursuant to subdivision (a) or (b).

SEC. 3. Any city, county, or city and county that adopts an ordinance or resolution pursuant to subdivision (b) of Section 66498.8 of the Government Code, as amended by Section 2 of this act, prior to January 1, 1986, and any person affected by the ordinance or resolution, shall have all of the rights, powers, and duties accorded by Chapter 1113 of the Statutes of 1984 as if all of the provisions enacted by Chapter 1113 of the Statutes of 1984 were operative upon the effective date of the ordinance or resolution.

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 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. 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 for local agencies to be afforded the authority to implement Chapter 1113 of the Statutes of 1984 prior to January 1, 1986, if so requested, it is necessary that this act take effect immediately.

CHAPTER 250

An act to add Section 13823.4 to the Penal Code, relating to family violence, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1985. Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 13823.4 is added to the Penal Code, to read:

13823.4. (a) The Legislature finds the problem of family violence to be of serious and increasing magnitude. The Legislature also finds that acts of family violence often result in other crimes and social problems.

(b) There is in the Office of Criminal Justice Planning, a Family Violence Prevention Program. This program shall provide financial and technical assistance to local domestic and family violence centers in implementing family violence prevention programs.

The goals and functions of the program shall include all of the following:

(1) Promotion of neighborhood involvement through public education geared specifically toward reaching and educating the friends and neighbors of members of violent families.

(2) In cooperation with the Commission on Peace Officer Standards and Training, training of peace officers in community orientation and family violence prevention.

(3) Increasing citizen involvement in family violence prevention.

(4) Identification and testing of family violence prevention models.

(5) Replication of successful models, as appropriate, through the state.

(6) Provision of technical assistance to family and domestic violence centers in prevention techniques and programs.

(7) Development of informational materials and seminars to enable emulation or adaptation of the models by other communities.

(8) Organization and presentation of at least one workshop to promote successful techniques and models among shelters, centers, law enforcement, and other practitioners.

(9) Provision of domestic violence prevention education and skills to students in schools.

(c) The executive director shall allocate funds to local centers meeting the criteria for funding that shall be established by the Office of Criminal Justice Planning in consultation with practitioners and experts in the field of family violence prevention. All centers receiving funds pursuant to this section shall have had an ongoing recognized program, supported by either public or private funds, dealing with an aspect of family violence, for at least two years prior to the date specified for submission of applications for funding pursuant to this section. All centers funded pursuant to this section shall utilize volunteers to the greatest extent possible.

The centers may seek, receive, and make use of any funds which may be available from all public and private sources to augment any state funds received pursuant to this section.

Programs shall be funded for a period not to exceed two years. Centers receiving funding shall provide matching funds of at least 10 percent of the funds received pursuant to this section.

(d) The Office of Criminal Justice Planning shall develop and disseminate throughout the state information and materials concerning family violence prevention, including, but not limited to, a procedures manual on prevention models. The office shall also establish a resource center for the collection, retention, and distribution of educational materials related to family violence and its prevention.

SEC. 2. It is the intent of the Legislature that, of the amount appropriated by the Budget Act of 1985 from the General Fund for local assistance for the Office of Criminal Justice Planning for the 1985–86 fiscal year, two hundred thousand dollars ($200,000) shall be expended for the purposes of this act.

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

In order that this act may achieve maximum implementation, it is necessary that it become effective at the earliest possible time.

CHAPTER 251

An act to amend Section 640 of the Penal Code, relating to crimes.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 640 of the Penal Code is amended to read:

640. Any of the following acts committed on or in the facilities or vehicles of a public transportation system as defined by Section 99211 of the Public Utilities Code, on or in the facilities of, or vehicles operated by entities subsidized by, the State Department of Transportation is an infraction punishable by a fine not to exceed two hundred fifty dollars ($250) or by community service for a total time not to exceed 20 hours over a period not to exceed 30 days, during a time other than during his or her hours of school attendance or employment:

(a) Evasion of the payment of the fares of the system.

(b) Misuse of transfers, passes, tickets, or tokens with the intent to evade the payment of fares.

(c) Playing sound equipment on or in system facilities or vehicles.

(d) Smoking, eating, or drinking in or on system facilities or vehicles in those areas where those activities are prohibited by that system.

(e) Expectorating upon system facilities or vehicles.

(f) Willfully disturbing others on or in system facilities or vehicles by engaging in boisterous or unruly behavior.

CHAPTER 252

An act to amend Section 340 of, and to add Section 340.1 to, the Military and Veterans Code, relating to state military service.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 340 of the Military and Veterans Code is amended to read:

340. (a) Subject to Section 340.1, whenever any officer or enlisted member of the California National Guard, the unorganized

militia when called into the active service of the state, or the organized militia when not in the active service of the United States is wounded, injured, disabled, or killed in the active service of the state in the line of duty, the member or the member's dependents shall receive compensation under Division 4 (commencing with Section 3201) of the Labor Code. For these purposes, the member is deemed to be an employee of the state. The compensation shall be based on the member's average income from all sources during the year immediately preceding the date of wounding, injury, or death or the commencement of disability and shall not exceed the maximum prescribed in Division 4 of the Labor Code.

(b) The benefits granted by this section shall be made available to the person entitled thereto as soon as practicable and without awaiting determination as to the availability of similar federal benefits, including, but not limited to, those provided under Section 3687, 3721, 8687, or 8721 of Title 10 of the United States Code, or Section 318 or 321 of Title 32 of the United States Code. These federal benefits, when made available, shall be deducted from or credited as a payment of any benefits granted by this section.

SEC. 2. Section 340.1 is added to the Military and Veterans Code, to read:

340.1. (a) Any officer or enlisted member of the California National Guard, the unorganized militia when called into the active service of the state, or the organized militia when not in the active service of the United States, except an officer, warrant officer, or enlisted member in the active service of the state with the Office of the Adjutant General, who is wounded, injured, or disabled in the active service of the state in the line of duty shall be retained on active duty and shall receive regular military pay and allowances for not to exceed 26 weeks from the date of wounding, injury, or disability, regardless of the date of expiration of the period of state active duty, unless any of the following occurs:

(1) The member becomes entitled to disability compensation through any private or other public employer.

(2) The member is able to return to his or her regular civilian employment, as determined by proper authority.

(3) The member requests an earlier release from active duty.

(b) A member who has received benefits under subdivision (a) and who is unable to return to his or her regular civilian employment following 26 weeks after the date of wounding, injury, or disability is entitled to compensation under Division 4 (commencing with Section 3201) of the Labor Code, pursuant to Section 340.

CHAPTER 253

An act to amend Section 7058 of the Business and Professions Code, and to amend Section 13196.5 of the Health and Safety Code, relating to contractors.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 7058 of the Business and Professions Code is amended to read:

7058. (a) A specialty contractor is a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

(b) A specialty contractor includes a contractor holding a valid C-16 contractor's license whose operations include the business of servicing or testing fire extinguishing systems.

(c) A specialty contractor includes a contractor whose operations are concerned with the installation and laying of carpets, linoleum, and resilient floor covering.

(d) A contractor who installs or contracts for the installation of carpet wherein the carpet is attached to the structure by any conventional method as determined by custom and usage in the trade is expressly included within the definition of a specialty contractor as provided in this section; except that a seller of installed carpet who holds a retail furniture dealer's license under Chapter 3 (commencing with Section 19000) of Division 8 shall not be required to have a contractor's license if the installation of such carpet is performed by a licensed contractor and the seller so certifies in writing to the buyer prior to the performance of the installation, which certification shall include the name, business address, and contractor's license number of the licensed contractor by whom the installation will be performed.

SEC. 2. Section 13196.5 of the Health and Safety Code is amended to read:

13196.5. (a) Except as provided in subdivisions (b), (c), and (d), no person shall engage in the business of servicing or testing automatic fire extinguishing systems without a license issued by the State Fire Marshal pursuant to this chapter.

(b) Persons who engage in the business of servicing or testing fire alarm devices, water flow alarm devices, or the supervisory signaling components of automatic fire extinguishing systems shall not be subject to the licensing requirements contained in this chapter.

(c) Industrial systems may be serviced or tested by, or under the supervision of, an engineer employed by a private entity who shall not be subject to the licensing requirements contained in this

chapter unless he or she performs the service or testing for a fee outside of the employment relationship.

(d) Any specialty contractor, as defined in subdivision (b) of Section 7058 of the Business and Professions Code, shall not be subject to the licensing requirements contained in this chapter.

CHAPTER 254

An act to amend Section 6103.5 of the Government Code, relating to process fees.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 6103.5 of the Government Code is amended to read:

6103.5. Whenever a judgment is recovered by a public agency named in Section 6103, either as plaintiff or petitioner or as defendant or respondent, in any action or proceeding to begin, or to defend, which under the provisions of Section 6103 no fee for any official service rendered by the clerk of the court, including, but not limited to, the services of filing, certifying, and preparing transcripts, nor fee for service of process or notices by a sheriff, marshal, or constable has been paid, other than in a condemnation proceeding, quiet title action, action for the forfeiture of a fish net or nets or action for the forfeiture of an automobile or automobiles, the clerk entering the judgment shall include as a part of the judgment the amount of the filing fee and the amount of the fee for the service of process or notices which would have been paid but for Section 6103, designating it as such. The clerk entering the judgment shall include as part of the judgment the amount of the fees for certifying and preparing transcripts if the court has, in its discretion, ordered those fees to be paid. When an amount equal to the clerk's fees and the fees for service of process and notices is collected upon that judgment, those amounts shall be due and payable to the clerk and the serving officer respectively. The clerk shall ascertain from the serving officer's return the amount of fees he or she would have charged had it not been for the provisions of Section 6103. Remittances of the amounts so due shall be made at least quarterly during the year by the fiscal officer of the plaintiff or petitioner or respondent or defendant in the action or proceeding. No interest shall be computed or charged on the amount of the fee.

SEC. 2. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the

claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 3. 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 255

An act to amend Section 21211 of, to add Section 9361.12 to, and to repeal Section 21368 of, the Government Code, relating to public retirement systems.

[Approved by Governor July 25, 1985. Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 9361.12 is added to the Government Code, to read:

9361.12. Notwithstanding any provision of this part, a retired member who was a Member of the Senate or Assembly may revoke an optional settlement and may designate a different beneficiary by a writing filed with the board. The new beneficiary shall receive an allowance based upon the actuarial equivalent, as of the date of the election, of the retired member's allowance payable for the remainder of the lifetime of the retired member under one of the optional settlements specified in this article.

SEC. 2. Section 21211 of the Government Code is amended to read:

21211. If no beneficiary designation is in effect on the date of death, any benefit payable shall be paid to the survivors of the member in the following order:

1. The member's spouse
2. The member's children
3. The member's parents
4. The member's brothers and sisters.

Payment shall be to the members of the group entitled, share and share alike. No payment shall be made to persons in any group if at the date of death there are living persons in any group preceding it; provided, however, that children of a deceased child of the member shall receive, share and share alike, the share that such child would have received were he living at the date of the member's death.

If there is no effective beneficiary designation and there are no survivors entitled to the benefit under this section the benefit shall be paid to the estate of the member.

Payment pursuant to the board's determination in good faith upon

evidence satisfactory to it of the existence, identity or other facts relating to entitlement of persons under this section shall constitute a complete discharge of and release of the system from liability for the benefit so paid.

SEC. 3. Section 21368 of the Government Code is repealed.

CHAPTER 256

An act to amend Sections 14004.5, 14005, and 14006.7 of the Food and Agricultural Code, relating to pesticides.

[Approved by Governor July 25, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 14004.5 of the Food and Agricultural Code is amended to read:

14004.5. The director shall, by regulation, designate and establish as necessary to carry out the purposes of this division, a list of restricted materials based upon, but not limited to, any of the following criteria:

(a) Danger of impairment of public health.

(b) Hazards to applicators and farmworkers.

(c) Hazards to domestic animals, including honeybees, or to crops from direct application or drift.

(d) Hazard to the environment from drift onto streams, lakes, and wildlife sanctuaries.

(e) Hazards related to persistent residues in the soil resulting ultimately in contamination of the air, waterways, estuaries or lakes, with consequent damage to fish, wild birds, and other wildlife.

(f) Hazards to subsequent crops through persistent soil residues.

SEC. 2. Section 14005 of the Food and Agricultural Code is amended to read:

14005. Except as provided in subdivision (d) of Section 14006.6, the director shall adopt regulations which govern the possession and use of any restricted material which he or she finds and determines is injurious to the environment or to any person, animal, crop, or other property.

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 enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 14005 of the Food and Agricultural Code, as amended by Section 12 of Chapter 1276 of the Statutes of 1971, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 14006.7 of the Food and Agricultural Code is

amended to read:

14006.7. The director shall designate, by regulation, a list of "exempt materials" for which the director finds additional restrictions, other than registration and labeling requirements, are not necessary to carry out the purposes of this chapter. The exempt materials may be used without a permit if the use conforms with the registered label or printed instructions.

CHAPTER 257

An act to amend Section 7280 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 7280 of the Revenue and Taxation Code is amended to read:

7280. (a) The legislative body of any city or county may levy a tax on the privilege of occupying a room or rooms in a hotel, inn, tourist home or house, motel, or other lodging unless the occupancy is for any period of more than 30 days. The tax when levied by the legislative body of a county shall apply only to the unincorporated areas of the county.

(b) For purposes of this section, the term "the privilege of occupying a room or rooms in a hotel, inn, tourist home or house, motel, or other lodging" does not include the right of an owner of a timeshare estate in a room or rooms in a timeshare project, or the guest of that owner, to occupy the room, rooms, or other real property in which that owner retains the timeshare estate.

For purposes of this subdivision, "timeshare estate" means a timeshare estate, as defined by Section 11003.5 of the Business and Professions Code, and the term "guest of that owner" means a person who occupies real property accompanied by the owner of a timeshare estate in that real property, or who exercises that owner's right of occupancy of a timeshare estate without payment of any compensation to the owner. The term "guest of that owner" specifically includes a person occupying a timeshare unit pursuant to any form of exchange program.

(c) Subdivision (b) shall not affect or apply to the authority of any city or county to collect a transient occupancy tax from timeshare projects which were in existence as of May 1, 1985, and which timeshare projects were then subject to such a tax imposed by an ordinance duly enacted prior to May 1, 1985, pursuant to this section. The act adding this subdivision shall not in any way affect any litigation pending on or prior to December 31, 1985.

CHAPTER 258

An act to amend Section 29301, as amended by Section 6 of Chapter 889 of the Statutes of 1982, of, to amend Section 29304 of, to add Section 29159.4 to, and to repeal Section 29154, as added by Section 4 of Chapter 487 of the Statutes of 1981, and Section 29301, as added by Section 7 of Chapter 889 of the Statutes of 1982, of, the Food and Agricultural Code, relating to bees.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 29154 of the Food and Agricultural Code, as added by Section 4 of Chapter 487 of the Statutes of 1981, is repealed.

SEC. 2. Section 29159.4 is added to the Food and Agricultural Code, to read:

29159.4. (a) If abatement is by burning, the person abating shall act in accordance with applicable air pollution control district or air quality maintenance district regulations and state and local fire control laws, and shall act only under the supervision of the inspector.

(b) The inspector's supervision shall be in addition to, but not in conflict with, the applicable air pollution control district or air quality maintenance district regulations and fire control laws. Burning without the knowledge of and supervision of the inspector is a violation of this section.

(c) If abatement is by delivery to a licensed wax salvage plant, the person abating shall provide the inspector with information as to the date and location of delivery.

(d) If the inspector determines that abatement by burning is appropriate, the inspector's costs for supervising the burning shall be borne by the beekeeper with the diseased hives.

SEC. 3. Section 29301 of the Food and Agricultural Code, as amended by Section 6 of Chapter 889 of the Statutes of 1982, is amended to read:

29301. (a) The beekeeper, apiary owner, apiary operator, or the person in possession of any apiary shall pay to the director an annual assessment fee not to exceed thirty-five cents ($0.35) per colony as determined by the director, after consultation with the Apiary Board, to be necessary to carry out this article. However, the fee shall only be paid once each year by any one of these persons. For bees imported into the state, the fees shall be collected at the time the bees are received in the state.

(b) Beekeepers, apiary owners, apiary operators, or persons in possession of any apiary are exempt from the assessments required under this section if they own and operate less than 40 colonies.

(c) The department shall match any funds raised by the

assessments imposed under this section and transfer these matching funds to the State Treasury for credit to the Department of Food and Agriculture Fund for the purposes stated in Section 29303.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

SEC. 4. Section 29301 of the Food and Agricultural Code, as added by Section 7 of Chapter 889 of the Statutes of 1982, is repealed.

SEC. 5. Section 29304 of the Food and Agricultural Code is amended to read:

29304. Each beekeeper, apiary owner, apiary operator, or person in possession of any apiary, shall pay, in addition to any other fees imposed under this chapter, an annual registration fee of ten dollars ($10) to the commissioner to cover the cost of apiary registration.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 259

An act to amend Section 4051 of the Business and Professions Code, relating to pharmacy.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 4051 of the Business and Professions Code is amended to read:

4051. (a) This chapter does not prohibit the dispensing of drugs by anyone who holds a physician's and surgeon's certificate or a certificate to practice podiatry, and who is duly registered as such by the Board of Medical Quality Assurance or the Board of Osteopathic Examiners of this state, if all of the following conditions are met:

(1) The drugs are dispensed to the physician's or the podiatrist's own patient and the drugs are not furnished by a nurse or attendant.

(2) The drugs are necessary in the treatment of the condition for which the physician or podiatrist is attending the patient.

(3) The physician or podiatrist does not keep a pharmacy, open shop, or drugstore, advertised or otherwise, for the retailing of drugs or poisons.

(4) The physician or podiatrist fulfills all of the labeling requirements imposed upon pharmacists by Section 4047.5, all of the recordkeeping requirements of this chapter, and all of the packaging requirements of good pharmaceutical practice, including the use of child-proof containers. This paragraph shall not prohibit the furnishing of a limited quantity of samples by a physician or podiatrist, if the physician or podiatrist dispenses the samples to the patient in the package provided by the manufacturer, no charge is made to the patient therefor, and an appropriate record is entered in the patient's chart.

(5) The physician or podiatrist does not use a mechanical dispensing device unless he or she personally owns the device and the contents of it and personally dispenses the drugs to the patient packaged, labeled, and recorded in accordance with paragraph (4).

(b) The Board of Medical Quality Assurance and the Board of Osteopathic Examiners shall have authority with the Board of Pharmacy to assure compliance with this section, and those boards are specifically charged with the enforcement of this chapter with respect to their respective licensees.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 260

An act to amend Sections 1026 and 1026.3 of the Penal Code, relating to insanity.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 1026 of the Penal Code is amended to read:

1026. (a) When a defendant pleads not guilty by reason of insanity, and also joins with it another plea or pleas, the defendant shall first be tried as if only such other plea or pleas had been entered, and in that trial the defendant shall be conclusively presumed to have been sane at the time the offense is alleged to have been committed. If the jury shall find the defendant guilty, or if the defendant pleads only not guilty by reason of insanity, then the question whether the defendant was sane or insane at the time the offense was committed shall be promptly tried, either before the same jury or before a new jury in the discretion of the court. In that trial, the jury shall return a verdict either that the defendant was

sane at the time the offense was committed or was insane at the time the offense was committed. If the verdict or finding is that the defendant was sane at the time the offense was committed, the court shall sentence the defendant as provided by law. If the verdict or finding be that the defendant was insane at the time the offense was committed, the court, unless it shall appear to the court that the sanity of the defendant has been recovered fully, shall direct that the defendant be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private treatment facility approved by the county mental health director, or the court may order the defendant placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2. The court shall transmit a copy of its order to the county mental health director or a designee, and if the defendant is ordered confined in a state hospital or other treatment facility, copies of the arrest reports and the report of the county mental health director required under subdivision (b) shall accompany the person to the state hospital or other treatment facility where the defendant is to be confined.

(b) Prior to making such order directing that the defendant be confined in a state hospital or other treatment facility or placed on outpatient status, the court shall order the county mental health director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be placed on outpatient status or confined in a state hospital or other treatment facility. No person shall be admitted to a state hospital or other treatment facility or placed on outpatient status under this section without having been evaluated by the county mental health director or a designee. If, however, it shall appear to the court that the sanity of the defendant has been recovered fully, the defendant shall be remanded to the custody of the sheriff until the issue of sanity shall have been finally determined in the manner prescribed by law. A defendant committed to a state hospital or other treatment facility or placed on outpatient status pursuant to Title 15 (commencing with Section 1600) of Part 2 shall not be released from confinement, parole, or outpatient status unless and until the court which committed the person shall, after notice and hearing, find and determine that the person's sanity has been restored. Nothing in this section shall prevent the transfer of such person from one state hospital to any other state hospital by proper authority. Nothing in this section shall prevent the transfer of the patient to a hospital in another state in the manner provided in Section 4119 of the Welfare and Institutions Code.

(c) If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the state hospital and the county mental health director that the defendant be transferred to a public or private treatment facility approved by the county mental health director, order the defendant transferred to that facility. If the

defendant is committed or transferred to a public or private treatment facility approved by the county mental health director, the court may, upon receiving the written recommendation of the county mental health director, order the defendant transferred to a state hospital or to another public or private treatment facility approved by the county mental health director. Where either the defendant or the prosecuting attorney chooses to contest either kind of order of transfer, a petition may be filed in the court requesting a hearing which shall be held if the court determines that sufficient grounds exist. At that hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same procedures and standards of proof as used in conducting probation revocation hearings pursuant to Section 1203.2.

(d) Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the county mental health director or a designee.

(e) If the defendant is confined in a state hospital or other treatment facility as an inpatient or is on parole under the provisions of subdivision (a) or (b) of Section 1611, the medical director of the facility shall, at six-month intervals, submit a report in writing to the court and the county mental health director of the county of commitment or a designee setting forth the status and progress of the defendant. The court shall transmit copies of these reports to the prosecutor and defense counsel.

(f) When directing that the defendant be confined in a state hospital pursuant to subdivision (a), the court shall select the state hospital in accordance with the policies established by the State Department of Mental Health.

SEC. 2. Section 1026.3 of the Penal Code is amended to read:

1026.3. A person committed to a state hospital or other treatment facility under Section 1026, and a person placed pursuant to subdivision (e) of Section 1026.2 as amended by Section 3.5 of Chapter 1488 of the Statutes of 1984, may be placed on outpatient status from the commitment as provided in Title 15 (commencing with Section 1600) of Part 2.

CHAPTER 261

An act to amend and repeal Section 24007 of, and to add and repeal Section 24213 of, the Education Code, relating to the State Teachers' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 24007 of the Education Code is amended to read:

24007. Upon retirement for service after the operative date of this section, any member who is an employee of a community college with 25 years of credited service may retire at age 50 or older and receive an annual allowance equal to 2 percent of final compensation for each year of credited service with the allowance reduced by one-quarter of 1 percent for each full month or fraction of a month which will elapse until the member would have reached age 55 and one-half of 1 percent for each full month or fraction thereof between age 55 and age 60.

This section shall not be applicable to any community college district or other employing agency until the district or agency notifies the board, in writing, of its election to be subject thereto.

This section shall become operative on January 1, 1983, and shall remain in effect only until January 1, 1989, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends such date.

SEC. 2. Section 24213 is added to the Education Code, to read:

24213. The board shall develop, adopt, and implement an additional alternative retirement plan which will allow a school district or other employing agency to permit those members with 30 years of credited service that the school district or agency deems appropriate to retire at age 55 or older and receive an annual allowance equal to 2 percent of final compensation for each year of credited service with the allowance reduced by one-quarter of 1 percent for each full month or fraction of a month which will elapse until the member would have reached age 60 if the member retires on and after June 1, 1979.

The employing school district or other employing agency shall pay the amount which is determined by the board to be the present value of the benefits provided under this section. The board shall permit such payments to be made over a three-year period in equal amounts. Interest shall be charged on the unpaid balance at a rate approximating the average yield on moneys invested by the board during the previous year from the effective date of the member's retirement.

This section shall become operative on July 1, 1985, and shall remain in effect only until July 1, 1988, and as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. It is the intent of the Legislature that if this bill is not enacted by July 1, 1985, Section 2 of this act shall be construed as

becoming operative on July 1, 1985.

SEC. 4. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

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 ensure the benefits of this act to continue to provide school districts, community college districts, and other employing agencies with a method to solve personnel management problems which may arise, it is necessary that this act take effect immediately.

CHAPTER 262

An act to amend Section 5101 of, to repeal Section 5108 of, to repeal Article 6 (commencing with Section 10200) of Chapter 1 of, and to repeal Article 6 (commencing with Section 10800) of Chapter 2.5 of, Part 2 of Division 2 of, the Public Contract Code, relating to public contracts.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 5101 of the Public Contract Code is amended to read:

5101. (a) A bidder shall not be relieved of the bid unless by consent of the awarding authority nor shall any change be made in the bid because of mistake, but the bidder may bring an action against the public entity in a court of competent jurisdiction in the county in which the bids were opened for the recovery of the amount forfeited, without interest or costs. If the plaintiff fails to recover judgment, the plaintiff shall pay all costs incurred by the public entity in the suit, including a reasonable attorney's fee to be fixed by the court.

(b) If an awarding authority for the state consents to relieve a bidder of a bid because of mistake, the authority shall prepare a report in writing to document the facts establishing the existence of each element required by Section 5103. The report shall be available for inspection as a public record and shall be filed with the State Board of Control; except that in the case of the University of California or a California State University, the report shall be filed

with the regents and the trustees, respectively.

SEC. 2. Section 5108 of the Public Contract Code is repealed.

SEC. 3. Article 6 (commencing with Section 10200) of Chapter 1 of Part 2 of Division 2 of the Public Contract Code is repealed.

SEC. 4. Article 6 (commencing with Section 10800) of Chapter 2.5 of Part 2 of Division 2 of the Public Contract Code is repealed.

CHAPTER 263

An act to add Section 657 to the Business and Professions Code, relating to health care providers.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985.]

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

SECTION 1. It is the finding of the Legislature that third party payors should pay health or medical care claims in a timely fashion. It is the Legislature's further finding that to do this, health care providers should be expressly authorized to offer third party payors discounts for reimbursement made within time deadlines established by the health care providers.

SEC. 2. Section 657 is added to the Business and Professions Code, to read:

657. (a) To encourage the prompt payment of health or medical care claims by third party payors, health care providers are hereby expressly authorized to grant discounts in health or medical care claims submitted to third party payors when payment by the third party payor is made promptly within time limits prescribed by the health care providers or institutions rendering the service or treatment.

(b) "Health care provider," as used in this section, means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

CHAPTER 264

An act to amend Section 33447 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 33447 of the Health and Safety Code is amended to read:

33447. In addition to any other authority contained in this division and subject to the requirements of this section, taxes levied in a project area and allocated to the agency as provided in subdivision (b) of Section 33670 may be used as provided thereby anywhere within the territorial jurisdiction of the agency to finance the construction or acquisition of public improvements meeting the following criteria, as determined by resolution of the agency:

(a) The public improvements will enhance the environment of a residential neighborhood containing housing for persons and families of low or moderate income, as defined in Section 50093, including very low-income households, as defined in Section 50105.

(b) The public improvements will be of benefit to the project area. That determination shall be final and conclusive as to the issue of benefit to the project area.

(c) Public improvements eligible for financing under this section shall be limited to the following:

(1) Street improvements.

(2) Water, sewer, and storm drainage facilities.

(3) Neighborhood parks and related recreational facilities.

This section shall be applicable to redevelopment projects within the City of Paramount for which the redevelopment plan authorizes tax-increment financing pursuant to Section 33670, whether the redevelopment plan is adopted prior or subsequent to January 1, 1978. Financing of public improvements pursuant to this section shall be authorized by the redevelopment plan or by resolution of the agency. Any ordinance or resolution implementing this section shall specify the public improvements to be financed thereunder.

As a condition to financing public improvements as provided in this section on or after January 1, 1983, the redevelopment agency of the City of Paramount shall establish a Low and Moderate Income Housing Fund, and, with respect to any project made subject to this section, shall deposit in that fund not less than 20 percent of that portion of revenues allocated and paid to the agency pursuant to subdivision (b) of Section 33670 on and after January 1, 1983, which is not required to pay the principal of, or interest on, bonds or other indebtedness of the agency issued or incurred prior to that date. Moneys deposited in the Low and Moderate Income Housing Fund

pursuant to this section shall be utilized to rehabilitate housing for occupancy by persons and families of low or moderate income.

If it utilizes the authority specified by this section on or after January 1, 1981, the redevelopment agency of the City of Paramount shall, on or before January 1, 1985, submit to the Legislature a report which (1) details expenditures made pursuant to this section, (2) describes public improvements and housing financed pursuant to this section, (3) describes public improvements and housing financed or to be financed under this section which are not yet completed, and (4) specifies the number of households benefited by housing units assisted pursuant to this section.

The Legislature finds and declares that effective redevelopment within the City of Paramount requires the existence of adequate public services and facilities for persons residing in the surrounding community, including persons employed by industry which is located in a redevelopment project, and that public improvements of the types specified in this section are particularly needed in the low- and moderate-income neighborhoods of the City of Paramount in order to encourage stability and prevent decline which could have serious negative impact on redevelopment, as well as necessitate additional redevelopment. Because of the unusually compelling need in the City of Paramount and because of the impracticability of financing all required improvements by other means, it is the intent of the Legislature in enacting this section to augment the powers of the redevelopment agency of the City of Paramount to permit the use of tax-increment revenues in the manner, and for the purposes prescribed by this section.

This section shall remain in effect only until January 1, 1991, and on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date. However, the repeal of this section on that date shall not affect the validity of any ordinance or resolution adopted prior thereto as provided in this section, and shall not affect the validity of any bonds issued pursuant to the ordinance or resolution, or any pledge pursuant to Section 33671 of tax revenues to accrue on or after that date.

CHAPTER 265

An act to amend Section 19e of, and to repeal Section 17 of, the Penal Code, and to repeal Section 5 of Chapter 1270 of the Statutes of 1980, relating to crimes.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 17 of the Penal Code, as added by Section 2 of Chapter 1270 of the Statutes of 1980, is repealed.

SEC. 2. Section 19e of the Penal Code is amended to read:

19e. The following offenses are subject to the provisions of subdivision (d) of Section 17: Sections 330, 415, and 555, of the Penal Code; subdivision (m) of Section 602 of the Penal Code; subdivision (b) of Section 25658 and Sections 25661 and 25662 of the Business and Professions Code; Sections 27150.1, 40508, and 42005 of the Vehicle Code, Section 14601.1 of the Vehicle Code based upon failure to appear, and any other offense which the Legislature makes subject to the provisions of subdivision (d) of Section 17. Except where a lesser maximum fine is expressly provided for violation of any of such sections, any such violation which is an infraction is punishable by a fine not exceeding two hundred fifty dollars ($250).

Except for Section 14601.1 of the Vehicle Code based upon failure to appear, a conviction for any offense made an infraction under subdivision (d) of Section 17 shall not be grounds for the suspension, revocation, or denial of any license, or for the revocation of probation or parole of the person convicted.

SEC. 3. Section 5 of Chapter 1270 of the Statutes of 1980 is repealed.

CHAPTER 266

An act to amend Section 19995.5 of the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 19995.5 of the Government Code is amended to read:

19995.5. The Governor may make each year awards which shall be known as the Governor's Awards to employees or groups of employees who distinguished themselves by outstanding service to the state during the preceding year.

SEC. 2. The provisions of the following memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations on the dates listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit 5 - California Association of Highway Patrolmen, dated

July 12, 1985.

(b) Unit 8 - California Department of Forestry Employees Association, dated July 18, 1985.

(c) Unit 9 - Professional Engineers in California Government, dated July 15, 1985.

SEC. 3. Any provision in a memorandum of understanding approved by Section 2 which is scheduled to take effect on or after July 1, 1986, and which requires the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that requires the expenditure of funds shall become effective even if the memorandum of understanding is approved by the Legislature in legislation other than the annual Budget 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:

In order for the provisions of this act to be applicable in the 1985–86 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 267

An act to add Section 172o to the Penal Code, relating to alcoholic beverages.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 172o is added to the Penal Code, to read:

172o. The provisions of Sections 172, 172a, 172b, 172d, and 172g shall not apply to the sale of wine for consumption off the premises where sold when the wine is sold at a bona fide public eating place by the holder of an on-sale general alcoholic beverage license or an on-sale beer and wine license issued under the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code).

CHAPTER 268

An act to add Article 9.3 (commencing with Section 11258) to Chapter 2 of Part 3 of Division 6 of the Water Code, relating to water resources.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Article 9.3 (commencing with Section 11258) is added to Chapter 2 of Part 3 of Division 6 of the Water Code, to read:

Article 9.3. Groundwater Storage

11258. The project shall include facilities south of the Sacramento-San Joaquin Delta for utilizing groundwater storage space, determined by the director to be feasible for the purpose of providing yield for the State Water Resources Development System.

A facility described in this article shall not be constructed or operated within the boundaries of an agency that has contracted for a supply of water from the State Water Resources Development System unless the department enters into a contract with that agency concerning the facility.

CHAPTER 269

An act to amend Section 225p of the Civil Code, relating to adoption.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 225p of the Civil Code is amended to read:

225p. Whenever a petition is filed for the adoption of a child who has been placed for adoption by a licensed county adoption agency or the State Department of Social Services, the county adoption agency or the State Department of Social Services may, at the time of filing a favorable report in the superior court, require the persons petitioning to become adoptive parents to pay to the county agency, as agent of the state, or to the State Department of Social Services, a fee of five hundred dollars ($500). The county adoption agency or the State Department of Social Services may defer, waive, or reduce the fee when its payment would cause economic hardship to the adoptive parents detrimental to the welfare of the adopted child,

when the child has been in the foster care of the adoptive parents for at least one year, or if necessary for the placement of a hard-to-place child. A "hard-to-place" child is a child who because of his or her age, ethnic background, race, color, language, or physical, mental, emotional, or medical handicaps has become difficult to place in an adoptive home.

Nothing in this section shall be construed to require the payment of the fee to a county in the case of an adoption resulting from the independent placement of a child.

CHAPTER 270

An act to amend Sections 1695.8 and 2945.7 of the Civil Code, relating to real property.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 1695.8 of the Civil Code is amended to read:

1695.8. Any equity purchaser who violates any subdivision of Section 1695.6 or who engages in any practice which would operate as a fraud or deceit upon an equity seller shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), by imprisonment in the county jail for not more than one year, or in the state prison, or by both that fine and imprisonment for each violation.

SEC. 2. Section 2945.7 of the Civil Code is amended to read:

2945.7. Any person who commits any violation described in Section 2945.4 shall be punished by a fine of not more than ten thousand dollars ($10,000), by imprisonment in the county jail for not more than one year, or in the state prison, or by both that fine and imprisonment for each violation. These penalties are cumulative to any other remedies or penalties provided by law.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 271

An act to amend Sections 228 and 256 of the Military and Veterans Code, relating to state military service.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 228 of the Military and Veterans Code is amended to read:

228. (a) Any commissioned or warrant officer of the California National Guard who has served 20 years in the active service of the state may, on application, in the discretion of the Governor, be retired. Service in the United States Army, United States Air Force, United States Navy, or any reserve component thereof is considered state service in computing length of state service for the purposes of this section.

(b) Upon application made within one year of retirement, the officer may, in the discretion of the Governor, be granted an honorary advancement to the next grade above that held on the date of application for retirement. The Adjutant General shall adopt regulations governing the application procedure, qualifications required, and rights and privileges in connection with honorary post-retirement promotions under this subdivision. If recalled to either state or federal active service, a person honorarily promoted under this subdivision shall return to duty in that grade specified by federal law or regulations applicable to the person.

(c) Commissioned and warrant officers on active duty with the office of the Adjutant General pursuant to Section 167 who are not members of the Public Employees' Retirement System and who have been on active duty with the office of the Adjutant General for a total of 10 years shall, on application, be retired in accordance with the federal law and regulations which on the date of application govern the retirement of commissioned and warrant officers of the reserve components of the Army of the United States on extended active duty. However, inactive service in a reserve component of the armed forces of the United States shall not be considered in computing the total state service for retirement purposes. Retirement from state active duty with the office of the Adjutant General does not prohibit a person from active service in the California National Guard. In these cases, the length of service shall be computed as provided in this section and Section 215.

SEC. 2. Section 256 of the Military and Veterans Code is amended to read:

256. (a) Any enlisted member of the California National Guard who has served 20 years in the active service of the state may, on application, in the discretion of the Governor, be retired. Service in

the United States Army, United States Air Force, United States Navy, or any reserve component thereof shall be considered as state service in computing length of state service for the purposes of this section.

(b) Upon application made within one year of retirement, the person may, in the discretion of the Governor, be granted an honorary advancement to the next rank above that held on the date of application for retirement. The Adjutant General shall adopt regulations governing the application procedure, qualifications required, and rights and privileges in connection with honorary post-retirement promotions. If recalled to either state or federal active service, a person honorarily promoted under this subdivision shall return to duty in that rank specified by federal law or regulations applicable to the person.

(c) An enlisted member on active duty with the office of the Adjutant General pursuant to Section 167 who is not a member of the Public Employees' Retirement System and who has been on active duty with the office of the Adjutant General for a total of 10 years shall, on application, be retired in accordance with the federal law and regulations which on the date of application govern the retirement of enlisted members of the reserve components of the Army of the United States on extended active duty. However, inactive service in a reserve component of the armed forces of the United States shall not be considered in computing the total state service for retirement purposes. In these cases, the length of service shall be computed as provided in this section and Section 215.

CHAPTER 272

An act to amend Sections 3071, 3073, and 3076 of the Labor Code, relating to apprenticeship.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 3071 of the Labor Code is amended to read:

3071. The California Apprenticeship Council shall meet at the call of the Director of Industrial Relations and shall aid him or her in formulating policies for the effective administration of this chapter.

Thereafter, the California Apprenticeship Council shall meet quarterly at a designated date and special meetings may be held at the call of the chairman. The California Apprenticeship Council shall issue rules and regulations which establish standards for minimum wages, maximum hours, and working conditions for apprentice agreements, hereinafter in this chapter referred to as apprenticeship standards, which in no case shall be lower than those prescribed by

this chapter; and shall issue rules and regulations governing equal opportunities in apprenticeship, affirmative action programs which include women and minorities in apprenticeship, and other on-the-job training, and criteria for selection procedures with a view particularly toward eliminating criteria not relevant to qualification for training employment or more stringent than is reasonably necessary. The California Apprenticeship Council shall make biennial reports through the Director of Industrial Relations of its activities and findings to the Legislature and to the public.

SEC. 2. Section 3073 of the Labor Code is amended to read:

3073. The Chief of the Division of Apprenticeship Standards, or his or her duly authorized representative, shall administer the provisions of this chapter; act as secretary of the California Apprenticeship Council; shall foster, promote, and develop the welfare of the apprentice and industry, improve the working conditions of apprentices, and advance their opportunities for profitable employment; shall ensure that selection procedures are impartially administered to all applicants for apprenticeship; shall gather and promptly disseminate information through apprenticeship and training information centers; shall maintain on public file in all high schools and field offices of the Employment Development Department the name and location of the local area apprenticeship committees, the filing date, and minimum requirements for application of all registered apprenticeship programs; shall cooperate in the development of apprenticeship programs and may advise with them on problems affecting apprenticeship standards; shall audit all selection and disciplinary proceedings of apprentices or prospective apprentices; may enter joint agreements with the Employment Development Department outreach education and employment programs, and educational institutions on the operation of apprenticeship information centers, including positive efforts to achieve information on equal opportunity and affirmative action programs for women and minorities; and shall supervise and recommend apprenticeship agreements as to these standards and perform such other duties associated therewith as the California Apprenticeship Council may recommend. The chief shall coordinate the exchange, by the California Apprenticeship Council, the apprenticeship program sponsors, the Fair Employment and Housing Commission, community organizations, and other interested persons, of information on available minorities and women who may serve as apprentices.

SEC. 3. Section 3076 of the Labor Code is amended to read:

3076. The function of a joint apprenticeship committee, when specific written authority is delegated by the parent organizations represented, shall be to establish work processes, wage rates, working conditions for apprentices, the number of apprentices which shall be employed in the trade under apprentice agreements, and aid in the adjustment of apprenticeship disputes in accordance

with standards for apprenticeship set up by the California Apprenticeship Council. Disciplinary proceedings resulting from disputes shall be duly noticed to the involved individuals.

CHAPTER 273

An act to amend and renumber Section 19807 of, and to repeal Sections 19805 and 19806 of, the Welfare and Institutions Code, relating to independent living centers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 19805 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 19806 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 19807 of the Welfare and Institutions Code, as added by Section 1 of Chapter 346 of the Statutes of 1981, is amended and renumbered to read:

19805. The Department of Rehabilitation may advance to an independent living center an amount, each month, not in excess of one-twelfth of the annual allocation for the independent living center. Approval of funding advances shall be subject to the grantee's meeting accounting criteria established by the Department of Rehabilitation.

SEC. 4. Section 19807 of the Welfare and Institutions Code, as added by Section 1 of Chapter 1566 of the Statutes of 1984, is amended and renumbered to read:

19806. (a) For each fiscal year commencing with the 1984–85 fiscal year, an independent living center shall not be required to provide any matching funds through private contributions as a condition of receiving state funds except to acquire state incentive funds. An independent living center whose allocation of funds pursuant to this chapter, excluding state incentive funds, is less than one hundred fifty thousand dollars ($150,000) shall, to the extent funds are appropriated by the Legislature and allocated in accordance with regulations adopted by the department, receive, during the 1984–85 fiscal year, an amount of state funds pursuant to this section, in an amount equal to 50 percent of the difference between one hundred fifty thousand dollars ($150,000) and the independent living center's allocation under this chapter. During the 1985–86 fiscal year, and each fiscal year thereafter, each independent living center shall receive, to the extent funds are appropriated by the Legislature and allocated in accordance with

regulations adopted by the department, except for state incentive funds, at least one hundred fifty thousand ($150,000) in funds allocated under this chapter.

(b) (1) In addition to funds received pursuant to subdivision (a), and subject to the limitations of subdivision (c), to the extent funds are appropriated by the Legislature, and allocated in accordance with regulations adopted by the department, each independent living center shall have the amount of its private contributions which, for any fiscal year, exceeds the amount of private contributions received by the independent living center during the 1982–83 fiscal year matched by state incentive funds on the basis of one dollar ($1) in state incentive funds for each one dollar ($1) received in private contributions.

(2) Available state incentive funds shall be allocated during each fiscal year based upon the private contributions received by the independent living center in the immediately preceding fiscal year.

(3) For the purpose of determining eligibility for state incentive funds, any independent living center that uses a fiscal year other than the state fiscal year may elect to use a different fiscal year so long as the closing date of the fiscal year so elected does not precede the closing date of the equivalent state fiscal year by more than 11 months.

(4) The amount of private contributions claimed by an independent living center for each fiscal year, including the 1982–83 fiscal year, shall be verified by the department by utilizing appropriate financial records including, but not limited to, independent audits. Audits may be performed by the department up to three years from the close of the fiscal year during which state incentive funds were received by the independent living center being audited.

(c) The maximum amount of incentive funds as defined in subdivision (d) that may be acquired by any independent living center in any single fiscal year shall be computed as follows:

(1) Each independent living center funded under Section 19803 shall be entitled to acquire state incentive funds as specified in subdivision (b) in an amount not to exceed the total available state incentive funds, divided by the number of independent living centers then funded under Section 19803.

(2) Incentive funds remaining after the initial allocation pursuant to paragraph (1) shall be allocated among centers with remaining unmatched private contributions. Each center with remaining unmatched private contributions shall be allowed to match remaining incentive funds in an amount equal to the total remaining incentive funds divided by the number of centers with remaining private contributions. Subsequent distributions shall be made pursuant to the formula described in the preceding sentence and shall be repeated as many times as is necessary to allocate incentive funds to the greatest extent possible.

(3) State incentive funds not distributed to independent living

centers under paragraph (1) or (2) shall not be allocated under Section 19803 nor retained by the department for distribution as state incentive funds in later fiscal years.

(d) For purposes of this section:

(1) "Private funds" does not include any funds originating from any entity of the federal, state, city, or county government or any political subdivision thereof.

(2) "State incentive funds" means state funds appropriated by the Legislature for purposes of this chapter, except those funds allocated by the department pursuant to Section 19803 and subdivision (a) of this section.

(e) Any funds allocated under this chapter to any independent living center, other than as part of the initial allocation for each fiscal year, shall be made by contract amendment. Any such contract amendment shall require the provision of services in addition to that required by the contract being amended. All such services required by contract amendment shall not be performed prior to the date the contract amendment is approved by the state.

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 ensure that, to the extent state incentive funds are available, independent living centers with unmatched private contributions receive matching funds as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 274

An act to amend Section 27204 of the Vehicle Code, relating to noise limits.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 27204 of the Vehicle Code is amended to read:

27204. For the purposes of Section 27200, the following noise limits shall apply to any motor vehicle within the specified manufacturer's gross vehicle weight rating and date of manufacture:

GVWR-Pounds	Date of Manufacture	Noise Limit - dbA
Over 6,000	after 1967 and before 1973	88
Over 6,000	after 1972 and	86

Over 6,000	before 1975 after 1974 and before 1978	83
Over 8,500	after 1977 and before 1982	83
Over 6,000 but not over 8,500	after 1977	80
Over 8,500 but not over 10,000	after 1981	80
Over 10,000	after 1981 and before 1988	83
Over 10,000	after 1987	80

CHAPTER 275

An act to add Section 1789.24 to the Civil Code, relating to credit.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 1789.24 is added to the Civil Code, to read:

1789.24. (a) When a deposit has been made in lieu of a bond pursuant to subdivision (a) of Section 1789.13 and Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of proceeding under Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court, together with evidence that the claimant is a person described in subdivision (b) of Section 1789.18.

(b) When a person has fully established the claim with the Secretary of State, the Secretary of State shall forthwith review and approve the claim and enter the date of approval thereon. The claim shall be designated an "approved claim."

(c) When the first claim against a particular deposit account has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims which are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless there are insufficient funds in the deposit account, in which case each approved claim shall be paid a pro rata share of the deposit account.

(d) When the Secretary of State approves the first claim against

a particular deposit account after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (c) shall apply with respect to any amount remaining in the deposit account.

(e) After a deposit account is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivision (c) or (d) shall not be required to make a contribution back to the deposit account for the benefit of other claimants.

(f) When a deposit has been made in lieu of bond, as specified in subdivision (a), the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the credit services organization, other than as to an amount as no longer needed or required for the purpose of this title which would otherwise be returned to the credit services organization by the Secretary of State.

CHAPTER 276

An act to add Sections 3702.5 and 3704.5 to the Fish and Game Code, relating to migratory birds, and making an appropriation therefor.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 3702.5 is added to the Fish and Game Code, to read:

3702.5. Funds deposited in the State Duck Stamp Account may also be used to evaluate projects approved by the commission pursuant to this article when deemed necessary by the commission. The commission may enter into contracts with nonprofit organizations of its selection for the conduct of the evaluations.

The costs of the evaluations shall be included in the allocation of funds from the State Duck Stamp Account prescribed in Section 3704 as appropriate to the location of the project being evaluated.

SEC. 2. Section 3704.5 is added to the Fish and Game Code, to read:

3704.5. Waterfowl habitat improvement projects on property owned by the state for which the commission approves the use of funds are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code. With the approval of the state agency in control of the property, the commission may enter into contracts with nonprofit organizations for the accomplishment of those projects, or the commission may approve funds to reimburse the controlling agency for its costs of accomplishing the project.

CHAPTER 277

An act to amend Sections 14234 and 14235 of the Elections Code, relating to elections.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 14234 of the Elections Code is amended to read:

14234. When a voter declares under oath, administered by any member of the precinct board at the time the voter appears at the polling place to vote, that the voter is then unable to mark a ballot, the voter shall receive the assistance of not more than two persons selected by the voter other than the voter's employer, an agent of the voter's employer, or an officer or agent of the union of which the voter is a member.

No person assisting a voter shall divulge any information regarding the marking of the ballot.

In those polling places which do not meet the requirements specified by the State Architect for accessibility by the physically handicapped, a physically handicapped person may appear outside the polling place and vote a regular ballot. Such person may vote the ballot in a place which is as near as possible to the polling place and which is accessible to the physically handicapped. A precinct board member shall take a regular ballot to such person, qualify such person to vote, and return the voted ballot to the polling place. In those precincts in which it is impractical to vote a regular ballot outside the polling place, absentee ballots shall be provided in sufficient numbers to accomodate physically handicapped persons who present themselves on election day. The absentee ballot shall be presented to and voted by a physically handicapped person in the same manner as a regular ballot may be voted by such person outside the polling place.

SEC. 2. Section 14235 of the Elections Code is amended to read:

14235. Any person assisting a voter in marking that voter's ballot shall subscribe and take the following oath before assisting the voter:

State of California, County of _____, _____ precinct, ss. I,

_____

(Here insert the name of the person assisting the voter)

having been duly sworn, state that a request has been made of me by

_____

(Here insert the name of the voter)

for assistance in marking his or her ballot, and that I never will give any information concerning the marking of that ballot.

I am not the voter's employer, an agent of the voter's employer, or an officer or agent of the union of which the voter is a member.

(Signature of person assisting the voter)

Subscribed and sworn to before me, this _____ day of _____, 19__.

(Signature of officer before whom oath is taken)

CHAPTER 278

An act to amend Sections 12904 and 12905 of the Government Code, relating to fair employment and housing, and making an appropriation therefor.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 12904 of the Government Code is amended to read:

12904. Any member chosen to fill a vacancy on the commission occurring otherwise than by expiration of term shall be appointed for the unexpired term of the member whom he or she is to succeed. Four members of the commission shall constitute a quorum for the purpose of conducting the business thereof.

SEC. 2. Section 12905 of the Government Code is amended to read:

12905. Each member of the commission shall serve without compensation but shall receive one hundred dollars ($100) for each day actually spent in the performance of his or her duties under this part and shall also be entitled to his or her expenses actually and necessarily incurred in the performance of his or her duties.

SEC. 3. The sum of fourteen thousand dollars ($14,000) is hereby appropriated from the General Fund to the Fair Employment and Housing Commission, for purposes of implementing this act.

CHAPTER 279

An act to add Section 31031.7 to the Water Code, relating to county water districts.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 31031.7 is added to the Water Code, to read:

31031.7. Notwithstanding Sections 31031 and 31032.1, the water standby or availability charge or assessment in the Twentynine Palms Water District shall not exceed thirty dollars ($30) per acre per year for land on which the charge or assessment is levied or thirty dollars ($30) per year for a parcel less than one acre.

This section, applicable only to the Twentynine Palms Water District, is necessary because of the unique and special water management and financing problems of the area included within the district.

CHAPTER 280

An act to add Section 23355.2 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 23355.2 is added to the Business and Professions Code, to read:

23355.2. (a) For purposes of this section, "controlled access alcoholic beverage cabinet" means a closed container, either refrigerated, in whole or in part, or nonrefrigerated, and access to the interior of which is (1) restricted by means of a locking device which requires the use of a key, magnetic card, or similar device, or (2) controlled at all times by the licensee.

(b) Notwithstanding any other provision of this division, a hotel or motel may sell alcoholic beverages to its registered guests by means of a controlled access alcoholic beverage cabinet located in the guestrooms of those registered guests, provided that each of the following conditions is met:

(1) Access to a controlled access alcoholic beverage cabinet in a particular guestroom is provided, whether by furnishing a key, magnetic card, or similar device, or otherwise, only to the adult registered guest, if any, registered to stay in the guestroom.

(2) Prior to providing a key, magnetic card, or other similar device required to attain access to the controlled access alcoholic beverage cabinet in a particular guestroom to the registered guest thereof, or prior to otherwise providing access thereto to the registered guest, the licensee shall verify, in accordance with Article 3 (commencing with Section 25657), of Chapter 16 of this division,

that each registered guest to whom a key, magnetic card, or similar device is provided, or to whom access is otherwise provided, is not a minor.

(3) All employees handling the alcoholic beverages to be placed in the controlled access alcoholic beverage cabinet in any guestroom, including, but not limited to, any employee who inventories or restocks and replenishes the alcoholic beverages in the controlled access alcoholic beverage cabinet, shall be at least 21 years of age.

(4) There is no replenishing or restocking of the alcoholic beverages in any controlled access alcoholic beverage cabinet between the hours of 2 a.m. and 6 a.m. of the same day.

(5) Distilled spirits shall not be sold by means of a controlled access alcoholic beverage cabinet unless an off-sale general license is also issued for the premises.

(c) A controlled access alcoholic beverage cabinet may be part of another cabinet or similar device, whether refrigerated, in whole or in part, or nonrefrigerated, from which nonalcoholic beverages or food may be purchased by the guests in hotel or motel guestrooms. However, in that event, the portion of the cabinet or similar device in which alcoholic beverages are stored shall be a controlled access alcoholic beverage cabinet, as defined in this section.

(d) For purposes of this section, "hotel" or "motel" shall mean an establishment which is licensed to sell alcoholic beverages and which contains guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this subdivision, the existence of other legal relationships as between some occupants and the owner or operator thereof shall be immaterial.

SEC. 2. The Legislature declares that nothing in this act shall be construed in any manner whatsoever as modifying, revoking, repealing, or otherwise altering the prohibitions of Article 2 (commencing with Section 25631) of Chapter 16 of this division.

CHAPTER 281

An act to amend Section 13519 of, and to repeal Chapter 3 (commencing with Section 13720) of Title 5 of Part 4 of, the Penal Code, relating to criminal law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 13519 of the Penal Code is amended to read:

13519. (a) The commission shall implement by January 1, 1986, a course or courses of instruction for the training of law enforcement officers in California in the handling of domestic violence complaints and also shall develop guidelines for law enforcement response to domestic violence. The course or courses of instruction and the guidelines shall stress enforcement of criminal laws in domestic violence situations, availability of civil remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including utilizing the staff of shelters for battered women in the presentation of training.

As used in this section, "law enforcement officer" means any officer or employee of a local police department or sheriff's office.

(b) The course of basic training for law enforcement officers shall, no later than January 1, 1986, include adequate instruction in the procedures and techniques described below:

(1) The provisions set forth in Title 5 (commencing with Section 13700) relating to response, enforcement of court orders, and data collection.

(2) The legal duties imposed on police officers to make arrests and offer protection and assistance including guidelines for making felony and misdemeanor arrests.

(3) Techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of the victim.

(4) The nature and extent of domestic violence.

(5) The legal rights of, and remedies available to, victims of domestic violence.

(6) The use of an arrest by a private person in a domestic violence situation.

(7) Documentation, report writing, and evidence collection.

(8) Domestic violence diversion as provided in Chapter 2.6 (commencing with Section 1000.6) of Title 6 of Part 2.

(9) Tenancy issues and domestic violence.

(10) The impact on children of law enforcement intervention in domestic violence.

(11) The services and facilities available to victims and batterers.

(12) The use and applications of this code in domestic violence situations.

(13) Verification and enforcement of temporary restraining orders when (A) the suspect is present and (B) the suspect has fled.

(14) Verification and enforcement of stay-away orders.

(15) Cite and release policies.

(16) Emergency assistance to victims and how to assist victims in pursuing criminal justice options.

The guidelines developed by the commission shall also incorporate the foregoing factors.

(c) All law enforcement officers who have received their basic training before January 1, 1986, shall participate in supplementary training on domestic violence subjects, as prescribed and certified by the commission. This training shall be completed no later than January 1, 1989.

Local law enforcement agencies are encouraged to include, as part of their advanced officer training program, periodic updates and training on domestic violence. The commission shall assist where possible.

(d) The course of instruction, the learning and performance objectives, the standards for the training, and the guidelines shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in the field of domestic violence. The groups and individuals shall include, but shall not be limited to, the following: one representative each from the California Peace Officers' Association, the Peace Officers' Research Association of California, the State Bar of California, the California Women Lawyers' Association, and the State Commission on the Status of Women; two representatives from the commission; two representatives from the California Alliance Against Domestic Violence; two peace officers, recommended by the commission, who are experienced in the provision of domestic violence training; and two domestic violence experts, recommended by the California Alliance Against Domestic Violence, who are experienced in the provision of direct services to victims of domestic violence. At least one of the persons selected shall be a former victim of domestic violence.

The commission, in consultation with these groups and individuals, shall review existing training programs to determine in what ways domestic violence training might be included as a part of ongoing programs.

(e) Forty thousand dollars ($40,000) is appropriated from the Peace Officers Training Fund in augmentation of Item 8120-001-268 of the Budget Act of 1984, to support the travel, per diem, and associated costs for convening the necessary experts.

SEC. 2. Chapter 3 (commencing with Section 13720) of Title 5 of Part 4 of the Penal Code is repealed.

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

In order to ensure that this act shall achieve maximum implementation, it is necessary that it take effect at the earliest date possible.

CHAPTER 282

An act to amend Section 17958.5 of the Health and Safety Code, relating to housing.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 17958.5 of the Health and Safety Code is amended to read:

17958.5. (a) Except as provided in Section 17922.6, in adopting the ordinances or regulations pursuant to Section 17958, a city or county may make such changes or modifications in the requirements contained in the provisions published in the State Building Standards Code and the other regulations adopted pursuant to Section 17922 as it determines, pursuant to the provisions of Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions.

For purposes of this subdivision, a city and county may make reasonably necessary modifications to the requirements, adopted pursuant to Section 17922, contained in the provisions of the code and regulations on the basis of local conditions.

(b) On or before October 1, 1981, and each October 1 thereafter, the department shall transmit a report to the State Building Standards Commission on the modifications and changes made by cities and counties to the building standards published in the State Building Standards Code and the other regulations of the commission. The report shall include a summary by the department of the reasons cited as the necessity for the modifications and changes. The report required pursuant to this section shall apply to modifications and changes made after January 1, 1980.

CHAPTER 283

An act to amend Section 261 of the Penal Code, relating to crimes.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985.]

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

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

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

(1) Where a person is incapable, because of mental disease,

defect, or disorder or because of physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disease, defect, or disorder or physical disability rendered the alleged victim incapable of giving consent.

(2) Where it is accomplished against a person's will by means of force or fear of immediate and unlawful bodily injury on the person or another.

(3) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, administered by or with the privity of the accused.

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

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

(6) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

CHAPTER 284

An act relating to the Cosumnes River Water and Power Authority.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985.]

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

SECTION 1. As used in this act, the following terms shall have the following meaning:

(a) "Authority" means the Cosumnes River Water and Power Authority, operating under a joint powers agreement, as amended from time to time, for the purpose of developing water and power in the Cosumnes River Water Basin, as set forth in the joint powers agreement. The authority consists of the Amador County Water Agency, the El Dorado County Water Agency, the Sacramento County Water Agency, and the San Joaquin County Flood Control and Water Conservation District.

(b) "Project" means all, or a part, of the Cosumnes River Water and Power Project, as described in various studies of the authority, as amended from time to time.

SEC. 2. Notwithstanding any other provision of law, the requirements of the authority for the letting of contracts for the erection, construction, alteration, repair, or replacement of any public improvement of any kind of the authority shall be those requirements applicable to a county water district, as provided in the County Water District Law (Division 12 (commencing with Section 30000) of the Water Code).

SEC. 3. The Legislature finds and declares that this act is necessary as a special statute since a general statute within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable. The Legislature finds that the Cosumnes River Water and Power Authority, whose member agencies operate under different legislative acts with varying public bidding requirements, requires an established public bidding procedure to pursue various financing alternatives for the development of the project and that the requirements under the County Water District Law are best suited to allow those financing alternatives.

CHAPTER 285

An act to amend Section 4383 of the Civil Code, relating to family law.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 4383 of the Civil Code is amended to read:

4383. (a) Notwithstanding Section 4380, a judgment, order, or decree for the payment of child or spousal support may be enforced by a writ of execution without prior court approval for amounts that are not more than 10 years overdue on the date of the application for the writ.

(b) The application for a writ of execution shall be accompanied

by an affidavit stating the total amount due and unpaid that is not more than 10 years overdue on the date of the application. If interest on the overdue installments is sought, the affidavit shall state the total amount of the interest and the amount of each due and unpaid installment and the date it became due. The affidavit shall be filed in the action and a copy shall be attached to the writ of execution delivered to the levying officer. Where the law relating to the enforcement of judgments requires a writ of execution to be served on the judgment debtor, the levying officer shall serve the copy of the affidavit on the judgment debtor when the writ of execution is first served on the judgment debtor pursuant to a levy under the writ.

CHAPTER 286

An act to amend Section 66477 of the Government Code, relating to subdivisions.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 66477 of the Government Code is amended to read:

66477. The legislative body of a city or county may, by ordinance, require the dedication of land or impose a requirement of the payment of fees in lieu thereof, or a combination of both, for park or recreational purposes as a condition to the approval of a tentative map or parcel map, provided that:

(a) The ordinance has been in effect for a period of 30 days prior to the filing of the tentative map of the subdivision or parcel map.

(b) The ordinance includes definite standards for determining the proportion of a subdivision to be dedicated and the amount of any fee to be paid in lieu thereof. The amount of land dedicated or fees paid shall be based upon the residential density, which shall be determined on the basis of the approved or conditionally approved tentative map or parcel map and the average number of persons per household. There shall be a rebuttable presumption that the average number of persons per household by units in a structure is the same as that disclosed by the most recent available federal census or a census taken pursuant to Chapter 17 (commencing with Section 40200) of Part 2 of Division 3 of Title 4. However, the dedication of land, or the payment of fees, or both, shall not exceed the proportionate amount necessary to provide three acres of park area per 1,000 persons residing within a subdivision subject to this section, unless the amount of existing neighborhood and community park area, as calculated pursuant to this subdivision, exceeds that limit, in

which case the legislative body may adopt the calculated amount as a higher standard not to exceed five acres per 1,000 persons residing within a subdivision subject to this section.

(1) The park area per 1,000 members of the population of the city, county, or local public agency shall be derived from the ratio that the amount of neighborhood and community park acreage bears to the total population of the city, county, or local public agency as shown in the most recent available federal census. The amount of neighborhood and community park acreage shall be the actual acreage of existing neighborhood and community parks of the city, county, or local public agency as shown on its records, plans, recreational element, maps, or reports as of the date of the most recent available federal census.

(2) For cities incorporated after the date of the most recent available federal census, the park area per 1,000 members of the population of the city shall be derived from the ratio that the amount of neighborhood and community park acreage shown on the records, maps, or reports of the county in which the newly incorporated city is located bears to the total population of the new city as determined pursuant to Section 11005 of the Revenue and Taxation Code. In making any subsequent calculations pursuant to this section, the county in which the newly incorporated city is located shall not include the figures pertaining to the new city which were calculated pursuant to this paragraph. Fees shall be payable at the time of the recording of the final map or parcel map or at a later time as may be prescribed by local ordinance.

(c) The land, fees, or combination thereof are to be used only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision.

(d) The legislative body has adopted a general plan or specific plan containing policies and standards for parks and recreation facilities, and the park and recreational facilities are in accordance with definite principles and standards.

(e) The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.

(f) The city, county, or other local public agency to which the land or fees are conveyed or paid shall develop a schedule specifying how, when, and where it will use the land or fees, or both, to develop park or recreational facilities to serve the residents of the subdivision. Any fees collected under the ordinance shall be committed within five years after the payment of such fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If the fees are not committed, they, without any deductions, shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

(g) Only the payment of fees may be required in subdivisions containing 50 parcels or less.

(h) Subdivisions containing less than five parcels and not used for residential purposes shall be exempted from the requirements of this section. However a condition may be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four years the fee may be required to be paid by the owner of each such parcel as a condition to the issuance of such permit.

(i) If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by the ordinance.

Land or fees required under this section shall be conveyed or paid directly to the local public agency which provides park and recreational services on a communitywide level and to the area within which the proposed development will be located, if such agency elects to accept the land or fee. The local agency accepting such land or funds shall develop the land or use the funds in the manner provided in this section.

If park and recreational services and facilities are provided by a public agency other than a city or a county, the amount and location of land to be dedicated or fees to be paid shall, subject to subdivision (b), be jointly determined by the city or county having jurisdiction and such public agency.

This section does not apply to commercial or industrial subdivisions or to condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added.

Planned developments, real estate developments, stock cooperatives, and community apartment projects, as defined in Sections 11003, 11003.1, 11003.2, 11003.4, and 11004, respectively, of the Business and Professions Code, and condominiums, as defined in Section 783 of the Civil Code, shall be eligible to receive a credit, as determined by the legislative body, against the amount of land required to be dedicated, or the amount of the fee imposed, pursuant to this section, for the value of private open space within the development which is usable for active recreational uses.

Park and recreation purposes shall include land and facilities for the activity of "recreational community gardening," which activity consists of the cultivation by persons other than, or in addition to, the owner of such land, of plant material not for sale.

SEC. 2. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand

dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 3. 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 287

An act to amend Section 21083.2 of the Public Resources Code, relating to environmental quality.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 26, 1985.]

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

SECTION 1. Section 21083.2 of the Public Resources Code is amended 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 of these 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 any of the following:

(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, if this 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 units.

(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. However, the project applicant may extend that period if he or she 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 (g). 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 does 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 does 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, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

CHAPTER 288

An act to amend Section 20031 of, and to add Section 20651.4 to, the Government Code, relating to the Public Employees' Retirement Law.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 26, 1985]

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

SECTION 1. Section 20031 of the Government Code is amended to read:

20031. "Accumulated contributions" means accumulated normal contributions plus any accumulated additional contributions standing to the credit of a member's account.

SEC. 2. Section 20651.4 is added to the Government Code, to read:

20651.4. The payment, on or after January 1, 1986, of accumulated contributions to a former member shall include current year interest through the date in which the claim is filed with the office of the Controller.

CHAPTER 289

An act to amend Section 13518 of the Penal Code, relating to peace officers, and making an appropriation therefor.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 13518 of the Penal Code is amended to read:

13518. (a) Every city police officer, sheriff, deputy sheriff, marshal, deputy marshal, peace officer member of the California State Police, peace officer member of the California Highway Patrol, and police officer of a district authorized by statute to maintain a police department, except those whose duties are primarily clerical or administrative, shall meet the training standards prescribed by the Emergency Medical Services Authority for the administration of first aid and cardiopulmonary resuscitation. In addition, satisfactory completion of periodic refresher training or appropriate testing in cardiopulmonary resuscitation and other first aid as prescribed by the Emergency Medical Services Authority shall also be required.

(b) The course of training leading to the basic certificate issued by the commission shall include adequate instruction in the procedures described in subdivision (a). No reimbursement shall be made to

local agencies based on attendance at any such course which does not comply with the requirements of this subdivision.

(c) As used in this section, "primarily clerical or administrative" means the performance of clerical or administrative duties for a minimum of 90 percent of the time worked within a pay period.

SEC. 2. It is the intent of the Legislature that peace officer members of a marshal's office meet the first aid and cardiopulmonary resuscitation standards prescribed by the Emergency Medical Services Authority as part of the selection and training standards for marshals and deputy marshals established by the Commission on Peace Officer Standards and Training. A marshal's office choosing not to comply with the optional selection and training standards of the commission will not be required to meet the first aid and cardiopulmonary resuscitation training requirements prescribed by the Emergency Medical Services Authority.

Reimbursement for the cost of the first aid and cardiopulmonary resuscitation training for marshals and deputy marshals shall be in accordance with commission regulations and payable from the Peace Officers' Training Fund.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 290

An act to amend Sections 11054 and 11057 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 11054 of the Health and Safety Code is amended to read:

11054. (a) The controlled substances listed in this section are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol.

(2) Allylprodine.

(3) Alphacetylmethadol.
(4) Alphameprodine.
(5) Alphamethadol.
(6) Alpha-methylfentanyl.
(7) Benzethidine.
(8) Betacetylmethadol.
(9) Betameprodine.
(10) Betamethadol.
(11) Betaprodine.
(12) Clonitazene.
(13) Dextromoramide.
(14) Diampromide.
(15) Diethylthiambutene.
(16) Difenoxin.
(17) Dimenoxadol.
(18) Dimepheptanol.
(19) Dimethylthiambutene.
(20) Dioxaphetyl butyrate.
(21) Dipipanone.
(22) Ethylmethylthiambutene.
(23) Etonitazene.
(24) Etoxeridine.
(25) Furethidine.
(26) Hydroxypethidine.
(27) Ketobemidone.
(28) Levomoramide.
(29) Levophenacylmorphan.
(30) Morpheridine.
(31) Noracymethadol.
(32) Norlevorphanol.
(33) Normethadone.
(34) Norpipanone.
(35) Phenadoxone.
(36) Phenampromide.
(37) Phenomorphan.
(38) Phenoperidine.
(39) Piritramide.
(40) Proheptazine.
(41) Properidine.
(42) Propiram.
(43) Racemoramide.
(44) Sufentanil.
(45) Tilidine.
(46) Trimeperidine.

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-Oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Drotebanol.
(10) Etorphine (except hydrochloride salt)
(11) Heroin.
(12) Hydromorphinol.
(13) Methyldesmorphine.
(14) Methyldihydromorphine.
(15) Morphine methylbromide.
(16) Morphine methylsulfonate.
(17) Morphine-N-Oxide.
(18) Myrophine.
(19) Nicocodeine.
(20) Nicomorphine.
(21) Normorphine.
(22) Pholcodine.
(23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

(1) 4-bromo-2,5 dimethoxy-amphetamine — Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.

(2) 2,5-dimethoxyamphetamine — Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.

(3) 4-methoxyamphetamine — Some trade or other names: 4-methoxy-alpha-methylphenethylamine, paramethoxyamphetamine, PMA.

(4) 5-methoxy-3,4-methylenedioxy-amphetamine.

(5) 4-methyl-2,5-dimethoxy-amphetamine — Some trade or other names: 4-methyl-2,5 dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP".

(6) 3,4-methylenedioxy amphetamine.

(7) 3,4,5-trimethoxy amphetamine.

(8) Bufotenine — Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserolonin, 5-hydroxy-N,N-dimethyltryptamine; mappine.

(9) Diethyltrypatamine — Some trade or other names: N,N-Diethyltryptamine; DET.

(10) Dimethyltryptamine — Some trade or other names: DMT.

(11) Ibogaine — Some trade or other names: 7-Ethyl-6,6beta, 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernanthe iboga.

(12) Lysergic acid diethylamide.

(13) Marijuana.

(14) Mescaline.

(15) Peyote — Meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)).

(16) N-ethyl-3-piperidyl benzilate.

(17) N-methyl-3-piperidyl benzilate.

(18) Psilocybin.

(19) Psilocyn.

(20) Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

(21) Ethylamine analog of phencyclidine — Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

(22) Pyrrolidine analog of phencyclidine — Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.

(23) Thiophene analog of phencyclidine — Some trade or other names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone.

(2) Methaqualone.

SEC. 2. Section 11057 of the Health and Safety Code is amended

to read:

11057. (a) The controlled substances listed in this section are included in Schedule IV.

(b) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(c) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Barbital.
(2) Chloral betaine.
(3) Chloral hydrate.
(4) Chlordiazepoxide.
(5) Clonazepam.
(6) Clorazepate.
(7) Diazepam.
(8) Ethchlorvynol.
(9) Ethinamate.
(10) Flurazepam.
(11) Lorazepam.
(12) Mebutamate.
(13) Meprobamate.
(14) Methohexital.
(15) Methylphenobarbital (Mephobarbital).
(16) Oxazepam.
(17) Paraldehyde.
(18) Petrichoral.
(19) Phenobarbital.
(20) Prazepam.

(e) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers, whenever the existence of those salts, isomers, and salts of isomers is possible:

(1) Fenfluramine.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation

which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers is possible within the specific chemical designation:

(1) Diethylpropion.

(2) Phentermine.

(3) Pemoline (including organometallic complexes and chelates thereof).

(4) Pipradrol.

(5) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(g) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Pentazocine.

CHAPTER 291

An act to amend Sections 631 and 632 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 631 of the Welfare and Institutions Code is amended to read:

631. (a) Except as provided in subdivision (b), whenever a minor is taken into custody by a peace officer or probation officer, except when the minor willfully misrepresents himself or herself as 18 or more years of age, the minor shall be released within 48 hours after having been taken into custody, excluding nonjudicial days, unless within that period of time a petition to declare the minor a ward has been filed pursuant to the provisions of this chapter or a criminal complaint against the minor has been filed in a court of competent jurisdiction.

(b) Except when the minor represents himself or herself as 18 or more years of age, whenever a minor is taken into custody by a peace officer or probation officer without a warrant on the belief that the minor has committed a misdemeanor that does not involve violence, the threat of violence, or possession or use of a weapon, and if the minor is not currently on probation or parole, the minor shall be released within 48 hours after having been taken into custody or on the next judicial day, whichever is later, unless a petition has been filed to declare the minor to be a ward of the court and the minor has been ordered detained by a judge or referee of the juvenile court pursuant to Section 635.

(c) Whenever a minor who has been held in custody for more than 24 hours by the probation officer is subsequently released and no petition is filed, the probation officer shall prepare a written explanation of why the minor was held in custody for more than 24 hours. The written explanation shall be prepared within 72 hours after the minor is released from custody and filed in the record of the case. A copy of the written explanation shall be sent to the parents, guardian, or other person having care or custody of the minor.

SEC. 2. Section 632 of the Welfare and Institutions Code is amended to read:

632. Unless sooner released, a minor taken into custody under the provisions of this article shall be brought before a judge or referee of the juvenile court for a hearing (which shall be referred to as a "detention hearing") to determine whether the minor shall be further detained, as soon as possible but in any event before the expiration of the next judicial day after a petition to declare the minor a ward or dependent child has been filed. A minor taken into custody without a warrant on the belief that he or she has committed a misdemeanor not involving violence, a threat of violence, or possession or use of weapons, if the minor is not currently on probation or parole, shall be brought before a judge or referee of the juvenile court for a hearing to determine whether he or she shall be further detained as soon as possible, but no later than 48 hours or before the expiration of the next judicial day after having been taken into custody, whichever is later, after a petition to declare the minor a ward has been filed. If the minor is not brought before a judge or referee of the juvenile court within the period prescribed by this section, he or she shall be released from custody.

CHAPTER 292

An act to amend Section 903 of, and to add Section 908.5 to, the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984), relating to the Pajaro Valley Water Management Agency, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 903 of the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984) is amended to read:

Sec. 903. Before fixing the charges, the board of directors shall, after notice and hearing, find and determine the need for the charges for the purpose of paying the costs of these activities, and the amount of the charges for the purpose of paying the costs of these

activities, and the amount of the charges to be imposed. The charges shall not exceed five dollars ($5) per acre per year for each acre of land, or five dollars ($5) per year for each parcel of land less than one acre. However, the agency may vary the minimum charges collected on the basis of benefit accruing to the land as a result of the actions of the agency. The amount collected in any single year by means of the charge shall not exceed three hundred thousand dollars ($300,000).

SEC. 2. Section 908.5 is added to the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984), to read:

Sec. 908.5. In lieu of Sections 906, 907, and 908, charges imposed on landowners pursuant to this article may, at the option of the agency, be collected on the tax rolls of the counties in which the agency is situated in the same manner, by the same persons, and at the same time as, together with and not separately from, county ad valorem property taxes.

SEC. 3. Notwithstanding Sections 54902, 54902.1, and 54903 of the Government Code, the formation of the Pajaro Valley Water Management Agency pursuant to the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984) is effective for assessment and taxation purposes, if the required statements and map or plat are filed on or before July 31, 1985.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution (1) 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 and (2) because self-financing authority is provided in Section 29142 of the Government Code to cover any costs that may be incurred by counties in carrying on any program or performing any service required to be carried on or performed by 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:

In order that the Pajaro Valley Water Management Agency may begin operating and provide urgently needed water management services as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 293

An act to amend Sections 22726, 81420, 84051, 84207, 84702, 85410, and 87488 of the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 22726 of the Education Code is amended to read:

22726. Whenever the governing board of a school district or a community college district or a county superintendent of schools, by formal action, determines pursuant to Section 44929 or 87488 that because of impending curtailment of or changes in the manner of performing services, the best interests of the district or county superintendent of schools would be served by encouraging the retirement of certificated employees and that the retirement will either: (1) result in a net savings to the district or county superintendent of schools, or (2) result in a reduction of the number of certificated employees as a result of declining enrollment, or (3) result in the retention of certificated employees who are credentialed to teach in teacher shortage disciplines, including, but not limited to, mathematics and science, an additional two years of service shall be credited to a member if all of the following conditions exist:

(a) The member is credited with five or more years of service and retires during a period not more than 120 days or less than 60 days, commencing no sooner than the effective date of the formal action of the employer which shall specify the period.

(b) The employer transmits to the retirement fund an amount determined by the Teachers' Retirement Board which equals the actuarial equivalent of the difference between the allowance the member receives after receipt of service credit under this section and the amount the member would have received without the service credit The transfer to the retirement fund shall be made in a manner and time period acceptable to the Teachers' Retirement Board.

(c) The employer transmits to the retirement fund the administrative costs incurred by the system in implementing this section, as determined by the Teachers' Retirement Board.

(d) The community college district has certified to the Chancellor of the California Community Colleges, and the Superintendent of Public Instruction, as to a school district or county superintendent of schools, has certified, prior to the formal action becoming effective in the district or the office of the county superintendent of schools, that the net effect of the formal action will result in no costs to the State Teachers' Retirement System, the district, or the county superintendent of schools.

The amount of service credit shall be two years regardless of credited service, but shall not exceed the elapsed period of time intervening between the date of the member's retirement and the date the member attains normal retirement age as determined by

the Teachers' Retirement Board. The employer shall make the payment with respect to all eligible employees who retired pursuant to this section.

Any member who qualifies under this section and subsequently reenters the system, shall forfeit the service credit acquired under this section.

This section shall not be applicable to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the effective date of the formal action, or if the member is not otherwise eligible to retire for service.

This section shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 81420 of the Education Code is amended to read:

81420. A community college district may enter into a lease or agreement with a city, county, or city and county for the joint occupancy, or a private education institution for its sole occupancy, of the real property and buildings of the district, in accordance with the provisions of this article.

SEC. 3. Section 84051 of the Education Code is amended to read:

84051. Any gift or bequest of money which is to be invested pursuant to this article shall be placed in a fund as designated by the California Community Colleges Budget and Accounting Manual in the county treasury. If the gift or bequest of money is required to be used for specific purposes according to the terms of the gift or bequest, the governing board shall place the money in a separate account in the trust fund, and may by resolution designate the separate account by the name that it shall be known, including in its name the term trust account.

SEC. 4. Section 84207 of the Education Code is amended to read:

84207. (a) On or before November 15 of each year, the county auditor of each county shall furnish to the office of the Chancellor of the California Community Colleges the actual previous year's receipts, along with estimated current year receipts for secured tax receipts, unsecured tax receipts, prior year tax receipts, and timber tax receipts of each district or portion of district situated within his or her county, and any other appropriate taxes or subventions of each district or portion of district situated within his or her county. This information shall be forwarded on forms prescribed by the Chancellor of Community Colleges.

(b) This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date.

SEC. 5. Section 84702 of the Education Code is amended to read:

84702. The base revenues for each community college district shall be adjusted for changes in average daily attendance, subject to

the funded growth limitations in Section 84706, according to the following procedure:

(a) The chancellor shall determine the net increase or net decrease in the number of actual units of average daily attendance of the district between the preceding fiscal year and the current fiscal year.

(b) In the event that the total actual average daily attendance of any community college district for the 1983–84 fiscal year is less than the district's fully funded average daily attendance for the 1982–83 fiscal year, the district shall be allowed to increase its average daily attendance in the 1984–85 fiscal year up to, but not in excess of, the level of its 1982–83 fully funded average daily attendance. The chancellor shall determine the extent to which each district has increased or decreased its average daily attendance in 1984–85 relative to 1983–84.

For any district that increased its average daily attendance in 1984–85 over its 1983–84 level of average daily attendance, the chancellor shall adjust the base revenues for the 1984–85 fiscal year by the appropriate incremental cost rate specified in Section 84702.5 to the extent of the difference between the average daily attendance generated by the district in the 1984–85 fiscal year and the level of the district's 1982–83 fiscal year fully funded average daily attendance.

For any district that declined in average daily attendance in 1984–85 below its 1983–84 level of average daily attendance, the chancellor shall adjust the 1984–85 base revenues by the appropriate incremental cost rate specified in Section 84702.5 for the difference in average daily attendance generated by the district in the 1983–84 fiscal year and the level of the district's fully funded average daily attendance in the 1982–83 fiscal year.

(c) For the 1984–85 fiscal year and each fiscal year thereafter, in the event that the total actual average daily attendance for the current fiscal year is less than the base average daily attendance, the chancellor shall adjust the base revenues for the community college district for the subsequent year by the appropriate incremental cost rates specified in Section 84702.5.

(d) Except as provided in subdivision (b) with regard to the 1984–85 fiscal year, in the event that the total actual average daily attendance for the current fiscal year is greater than the base average daily attendance, the chancellor shall adjust the base revenues for the community college district for the current year by the appropriate incremental cost rate specified in Section 84702.5.

SEC. 6. Section 85410 of the Education Code is amended to read:

85410. In addition to establishing or maintaining a revolving cash fund under the provisions of Article 1 (commencing with Section 85400) of this chapter, the governing board of any community college district having an average daily attendance of 20,000 or more may, by resolution, establish revolving cash funds for use by presidents and other administrative officials designated by the

governing board and acting in accordance with regulations prescribed by the governing board, for services or matériel and for the purposes specified in Section 88166. The resolution shall set forth the necessity for the revolving cash funds, the presidents and other administrative officials of the community college district designated by the governing board, the purposes for which the revolving cash funds shall be made available, and the amount of such funds. The total amount of such funds for each district shall not exceed 3 percent of the current year's instructional supply budget.

The governing board of a community college district may establish a checking account for the revolving fund in one or more banks. The account shall be established in the custody of the principal or other administrative official designated by the governing board for whose use the revolving cash fund is created. The principal or administrative official in whose name the revolving cash fund is created shall be responsible for all expenditures therefrom, subject to such regulations as the governing board prescribes. The governing board shall provide for an audit of such funds on a regular basis.

The revolving cash fund for supplies shall be subject to the bonding provisions of Section 85401.

SEC. 7. Section 87488 of the Education Code is amended to read:

87488. Whenever the governing board of a community college district, by formal action, determines that because of impending curtailment of or changes in the manner of performing services, the best interests of the district would be served by encouraging the retirement of certificated employees and that the retirement will either: (1) result in a net savings to the district, or (2) result in a reduction of the number of certificated employees as a result of declining enrollment, or (3) result in the retention of certificated employees who are credentialed to teach in teacher shortage disciplines, including, but not limited to, mathematics and science, an additional two years of service shall be credited under the State Teachers' Retirement System to a certificated employee pursuant to Section 22726 if all of the following conditions exist:

(a) The employee is credited with five or more years of service under the State Teachers' Retirement System and retires during a period not more than 120 days or less than 60 days, commencing no sooner than the effective date of the formal action of the district which shall specify the period.

(b) The governing board transmits to the retirement fund an amount determined by the Teachers' Retirement Board which equals the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and Section 22726 and the amount the member would have received without the service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the Teachers' Retirement Board.

(c) The governing board transmits to the retirement fund the administrative costs incurred by the State Teachers' Retirement

System in implementing this section, as determined by the Teachers' Retirement Board.

(d) The community college district has certified to the chancellor, prior to the formal action becoming effective in a community college district, that the net effect of the formal action will result in no costs to the State Teachers' Retirement System or the district.

The amount of service credit shall be two years regardless of credited service, but shall not exceed the elapsed period of time intervening between the date of the member's retirement and the date the member attains normal retirement age as determined by the Teachers' Retirement Board. The community college district shall make the payment with respect to all eligible employees who retired pursuant to this section and Section 22726.

Any employee who qualifies under this section and Section 22726 and subsequently reenters the State Teachers' Retirement System, shall forfeit the service credit acquired under this section and Section 22726.

This section shall not be applicable to any employee otherwise eligible if the employee receives any unemployment insurance payments arising out of employment with an employer subject to Part 13 (commencing with Section 22000) of Title 1 during a period extending one year beyond the effective date of the formal action, or if the employee is not otherwise eligible to retire for service under the State Teachers' Retirement System.

This section shall become inoperative on July 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

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 correct faulty language of the current community college finance law so that funds will be apportioned to community college districts as intended in the 1984–85 fiscal year, and to permit a savings to community college districts because of early retirement of various employees, it is necessary that this act take effect immediately.

CHAPTER 294

An act to amend Section 1340 of, and to repeal Sections 42469 and 85265 of, the Education Code, relating to schools.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 1340 of the Education Code is amended to read:

1340. Notwithstanding any other provision of law to the contrary, the following procedure may be utilized for payroll-related payments as limited in this section. The county superintendent of schools may designate one or more national or state banks or a savings and loan association having its principal office in this state, if its deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, to act as disbursing agents for the county superintendent of schools and for school districts and community colleges under his or her jurisdiction. The county superintendent of schools may draw orders and requisitions upon the funds of the respective public employers, in favor of the designated institutions, for tax-sheltered annuities, custodial accounts, individual retirement accounts, credit union deductions, insurance plan payments, deferred compensation, withholding taxes, professional dues, and other payroll-related deductions or employer contributions. The county auditor shall follow the procedure with respect to examining and allowing the orders and requisitions set forth in Sections 42639 and 85239. The county superintendent of schools, upon receiving allowed warrants from the county auditor, shall deposit the warrants in the designated institutions. As soon as feasible following deposit, the county superintendent of schools shall furnish the designated institutions with information required to enable disbursement of payments to insurance companies, credit unions, and other recipients, including identification of the employees for whom the payments are to be made, the amount of payment on behalf of each designated employee, and the company to which the payment on behalf of each designated employee is to be made. It shall be the duty of each designated institution to disburse the payments to the recipients entitled thereto by check, bank draft, or other appropriate method, within a reasonable time after receipt of each payment, with necessary information for disbursements, which time period shall not exceed 5 working days. Designated institutions receiving deposits and making disbursements, and the county superintendent of schools, shall be deemed to be agents of the respective public employers, for payment of annuities on behalf of their respective employees, and for other payments as specified, and the moneys received by the banks shall be deemed to be deposits of the county superintendents of schools. Security for the deposits shall be furnished as required by the laws of this state. The county superintendent of schools may directly prepare the information and necessary checks, bank drafts, or other appropriate instruments, on the account or accounts within the designated institutions, providing that payment to recipients entitled thereto with required information is made within the time frame specified.

SEC. 2. Section 42649 of the Education Code is repealed:

SEC. 3. Section 85265 of the Education Code is repealed:

SEC. 4. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

SEC. 5. 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 295

An act to amend Sections 81656, 84706, and 84895 of, and to repeal and add Section 84522 of, the Education Code, to amend Section 12463 of the Government Code, and to amend Section 626.9 of the Penal Code, relating to public schools.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 81656 of the Education Code is amended to read:

81656. The governing board by majority vote may adopt a rule, delegating to any officer or employee of the district as the board may designate, the authority to purchase supplies, materials, apparatus, and equipment. No such rule shall authorize any officer or employee to make any purchases involving an expenditure by the district of twenty thousand dollars ($20,000) or more. The rule shall prescribe the limits of the delegation as to time, money, and subject matter. All transactions entered into by the designated officer or employee shall be reviewed by the governing board every 60 days.

In the event of malfeasance in office, the community college district officer or employee invested by the governing board with the power to contract shall be personally liable for any and all moneys of the district paid out as a result of the malfeasance.

SEC. 2. Section 84522 of the Education Code is repealed.

SEC. 3. Section 84522 is added to the Education Code, to read:

84522. (a) The governing board of each community college district shall determine two census weeks for each primary term established pursuant to subdivision (b) of Section 84520, and two census days for regularly scheduled courses not scheduled coterminous with a primary term.

(b) The governing board shall determine a drop date for reporting students in active attendance which shall be no later than the day prior to the beginning of each census week or to each census day.

(c) In exercising its authority under this section, the governing board shall consider the needs of students, most particularly those who are unable to complete a term due to illness or other extenuating circumstances, while at the same time making the drop date meaningful to the measurement of average daily attendance.

SEC. 4. Section 84706 of the Education Code is amended to read:

84706. (a) For the purpose of this article, average daily attendance shall include only the attendance of state residents, except as provided in Section 78462, attending within the district. All attendance of all students shall be reported in accordance with instructions provided by the chancellor.

(b) Community college districts shall be allowed to increase their funded average daily attendance over the prior year as determined by the chancellor in accordance with the following procedures:

(1) For the 1983–84 fiscal year, districts may be allowed to increase their funded average daily attendance to the level funded in the 1981–82 fiscal year less the adjustments made pursuant to Provision 11 of Item 6870-101-001 of the Budget Act of 1982. Increases for each district provided by this paragraph shall be in addition to the increases provided by paragraphs (2) and (4) and shall be allowed only to the extent that increases in statewide average daily attendance provided by this section, exclusive of paragraph (4), does not exceed the rate of change of the adult population of the state as determined by the Department of Finance, or funds remain available statewide pursuant to paragraph (3).

(2) Increases in statewide average daily attendance shall be based on the rate of change of the adult population of the state as determined by the Department of Finance. The allocation of changes on a district-by-district basis shall be determined by the chancellor, based on such factors as the rate of change in the adult population, as determined by the Department of Finance, unemployment, refugee population, new or underutilized physical capacity for student enrollment, and adult participation in instructional programs of the district. The chancellor shall allocate at least 0.01 times the base average daily attendance of the district or 100 units of average daily attendance, whichever is greater, unless adjusted pursuant to paragraph (5) of this subdivision.

The statewide adult population percentage change reported by the Department of Finance shall be based on the resident adult population 18 years of age and older and shall be consistent with actual and projected adult population data reported for like purposes. The percentage change of the adult population of the community college districts shall be compatible with the changes reported for the statewide adult population and shall be determined within the geographic boundaries of the district which shall be

consistent with the geographic boundaries used to determine the assessed valuation of property within the district.

The allocation of allowable increases in average daily attendance on a district-by-district basis shall not exceed a reasonable anticipated normal growth for any district, based on information that the chancellor may receive from the district.

(3) The level of funding available for increases in average daily attendance for each district, based on increases specified in paragraph (2), shall be the sum of the following:

(A) The percentage of allowable increase in average daily attendance specified in paragraph (2) times the level of base noncredit average daily attendance of the current fiscal year times the incremental cost rate specified in subdivision (a) of Section 84702.5.

(B) The percentage of allowable increase in average daily attendance specified in paragraph (2) times the level of base credit average daily attendance of the current fiscal year times the incremental cost rate specified in subdivision (b) of Section 84702.5.

(4) The chancellor shall allocate additional increases in average daily attendance for program growth in areas of statewide concern that are funded in the annual Budget Act or any other act of the Legislature, based on criteria adopted for those allocations.

(5) In the event of a deficit in funding for workload increases, all allowable increases in average daily attendance provided by this section shall be reduced proportionally.

(c) All increases in funded credited average daily attendance shall be accounted for in the following categories of the course classification system of the community colleges, as determined by the chancellor:

(1) Units of average daily attendance in courses that provide transfer credit to a baccalaureate-awarding institution.

(2) Units of average daily attendance in occupational education and vocational and technical programs and courses.

(3) Units of average daily attendance which prepare students for courses identified in paragraphs (1) and (2).

SEC. 5. Section 84895 of the Education Code is amended to read:

84895. (a) The chancellor's office shall adjust the actual units of average daily attendance of a district operating under a plan approved in accordance with Sections 84893 and 84894 to reflect the conduct of staff, student, and instructional improvement activities in lieu of scheduled instruction during flexible time. The adjusted units of average daily attendance shall be computed by multiplying the actual units of average daily attendance in the academic year, exclusive of any intersessions, computed pursuant to Section 84520 by a factor which does not change the average daily attendance which would otherwise have been generated if the time for the improvement activities had not been permitted and scheduled instruction had instead taken place.

(b) For courses other than those described in subdivision (b) of

Section 84520, this multiplier factor shall equal the sum of the following:

(1) 1.0.

(2) The total of all the actual hours of flexible time of all instructors pursuant to Section 84890 in the fiscal year, divided by the total of all the actual hours of classroom instruction of all instructors in the academic year, exclusive of any intersessions.

(c) For those courses described in subdivision (b) of Section 84520, this multiplier factor shall equal the maximum term length multiplier set forth in that subdivision.

SEC. 6. Section 12463 of the Government Code is amended to read:

12463. The Controller shall annually compile and publish reports of the financial transactions of each county, city, and school district, as defined in Section 80 of the Education Code, within this state, together with such other matter as he or she deems of public interest. The reports shall be made in the time, form, and manner prescribed by the Controller.

SEC. 7. Section 626.9 of the Penal Code is amended to read:

626.9. Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in Section 7521 of the Business and Professions Code, who brings or possesses a firearm upon the grounds of any public school, including the University of California, the California State University, and the California Community Colleges, or within any public school, including the University of California, the California State University, and the California Community Colleges, unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, shall be punished by imprisonment in the county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine, or by imprisonment in the state prison.

SEC. 8. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 9. 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 296

An act to amend Section 128.5 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 128.5 of the Code of Civil Procedure is amended to read:

128.5. (a) Every trial court may order a party, the party's attorney, or both to pay any reasonable expenses, including attorney's fees, incurred by another party as a result of bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. This section also applies to judicial arbitration proceedings under Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3.

(b) For purposes of this section:

(1) "Actions or tactics" include, but are not limited to, the making or opposing of motions or the filing and service of a complaint or cross-complaint. The mere filing of a complaint without service thereof on an opposing party does not constitute "actions or tactics" for purposes of this section.

(2) "Frivolous" means (A) totally and completely without merit or (B) for the sole purpose of harassing an opposing party.

(c) Expenses pursuant to this section shall not be imposed except on notice contained in a party's moving or responding papers; or the court's own motion, after notice and opportunity to be heard An order imposing expenses shall be in writing and shall recite in detail the conduct or circumstances justifying the order.

(d) The liability imposed by this section is in addition to any other liability imposed by law for acts or omissions within the purview of this section.

CHAPTER 297

An act to amend Sections 18290, 18300, 18566, 22051, 22207, 22455, 24051, 24207, 24455, 26207, and 26452 of, and to amend and renumber Section 24056 of, the Financial Code, and to amend Section 31 of Chapter 1082 of the Statutes of 1982, relating to financial institutions.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 18290 of the Financial Code is amended to read:

18290. An industrial loan company may provide and collect the costs for credit life insurance on the life of one or more of the borrowers and credit disability insurance to provide indemnity for payments becoming due on the indebtedness, with his or her consent, the form to be approved by the Commissioner of Insurance, and in an amount not in excess of the amount of the indebtedness. The amount charged to the borrower for such insurance shall not exceed, in the case of credit life insurance, the amount provided in (1) or (2) following, whichever is less, or, in the case of credit disability insurance, unless a regulation has been promulgated and established pursuant to Section 18412, in which case the amount charged shall not exceed the amount prescribed by such regulation, the amount provided in (1) following:

(1) The premium rate filed with the Commissioner of Insurance for the coverage provided pursuant to Article 5.9 (commencing with Section 779.1) of Chapter 1 of Part 2 of Division 1 of the Insurance Code and which has not been disapproved by the Insurance Commissioner, or

(2) Fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or such different maximum as is fixed by the Commissioner of Insurance by a valid and effective regulation hereafter adopted.

SEC. 2. Section 18300 of the Financial Code is amended to read:

18300. (a) As used in this article, "open-end loan" means a loan or loans made by an industrial loan company pursuant to a loan agreement which expressly states that it is made pursuant to this section and pursuant to which:

(1) The industrial loan company may permit the borrower to obtain advances of money from the industrial loan company from time to time or the industrial loan company may advance money on behalf of the borrower from time to time as directed by the borrower.

(2) The amount of each advance and the charges and other permitted costs are debited to an account.

(3) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation any unpaid charges other than permitted fees, costs and expenses.

(4) The borrower has the privilege of paying the account in full at any time or in monthly installments.

(b) Subject to the written approval of the commissioner of the industrial loan company's plan of business for making open-end loans as not being misleading or deceptive and subject to regulations the commissioner may promulgate with respect to open-end loans under Section 18347, an industrial loan company may make open-end loans pursuant to this section and may contract for and receive thereon charges as set forth in Section 18212. Such charges may be calculated on an amount not exceeding the greater of:

(1) The actual daily unpaid balances of the open-end account in the billing cycle for which the charge is made, in which case one-thirtieth of the monthly rate may be charged for each day the unpaid balance is outstanding.

(2) The average daily unpaid balance of the open-end account in the billing cycle for which the charge is made, which is the sum of the amount unpaid each day during that cycle divided by the number of days in that cycle. The amount unpaid on a day is determined by adding to the balance unpaid as of the beginning of that day all advances and other debits and deducting all payments and other credits made or received as of that day.

The billing cycle shall be monthly. A billing cycle is monthly if the closing date of that cycle is the same date each month or does not vary by more than four days from the regular date.

(c) No industrial loan company shall enter into any agreement for an open-end loan that provides for a minimum payment that would result in the full repayment of principal over more than the maximum periods set forth below opposite the respective size of loans.

Principal amount of loan	Maximum period
Less than $1,500	24 months and 15 days
$1,500 but less than $2,500	36 months and 15 days
$2,500 but less than $4,000	48 months and 15 days
$4,000 but less than $6,000	60 months and 15 days
$6,000 but less than $10,000	84 months and 15 days

The minimum payment shall be determined by the amount of the initial loan advance and shall continue at that amount until a subsequent loan advance is made, at which time the minimum payment shall be determined by the amount of the unpaid balance of the loan after the advance and including the advance. Minimum payments after each advance shall be determined in the same manner.

(d) On open-end loans the industrial loan company may contract for and receive the fees, costs and expenses permitted on other loans, including those permitted by Sections 18215, 18218, 18290, 18294, and

18412, subject to all of the conditions and restrictions set forth in those sections with the following variations:

(1) The charge for credit life insurance shall be on a monthly basis. No credit life insurance written in connection with an open-end loan shall be cancelled by the lender because of delinquency of the borrower in the making of the minimum payments thereon unless one or more of such payments is past due for a period of 90 days or more, and the lender shall advance to the insurer the amounts required to keep the insurance in force during such period, which amounts may be debited to the borrower's account.

(e) An industrial loan company shall not make an open-end loan in excess of ten thousand dollars ($10,000) principal amount.

(f) The loan contract shall provide for payment of minimum payments complying with subdivision (c). All loans made pursuant to this section shall be repayable by equal or substantially equal monthly payments during the term of the loan.

(g) In lieu of applying the provisions of Section 18290, the provisions contained herein shall apply to open-end loans.

An industrial loan company may provide insurance on the life of one or more borrowers with the borrower's consent. The form of the insurance shall be approved by the Insurance Commissioner and shall be in an amount not in excess of the indebtedness. The amount charged to the borrower for such insurance shall not exceed the amount provided in paragraph (1) or (2) following, whichever is less:

(1) The premium rate filed with the Insurance Commissioner for the coverage provided pursuant to Article 5.9 (commencing with Section 779.1) of Chapter 1 of Part 2 of Division 1 of the Insurance Code and which has not been disapproved by the Insurance Commissioner.

(2) Fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or such different maximum as is fixed by the Insurance Commissioner by a valid and effective regulation hereafter adopted.

Notwithstanding Section 18291, any such life insurance shall be in force as soon as the loan is made or coverage is agreed upon, whichever is later.

(h) The open-end loan agreement shall contain the name and address of the industrial loan company and shall disclose the nature of the security taken, if any, the method of determining the minimum payments which will be required to repay the initial advance, and any subsequent advances on the loan, and the agreed rate of charge.

(i) At the time the open-end loan agreement is made the industrial loan company shall obtain from the borrower a signed statement as to whether any person has performed any act as a broker in connection with the making of the loan. If such statement discloses a broker or other person has participated, the company shall obtain

a full statement of all sums paid or payable to the broker or other person. The open-end loan agreement and the statement required by this subdivision shall be kept for a period of two years after the date the loan has been paid in full, or has matured according to its terms, or has been charged off.

(j) Except in the case of an account which the industrial loan company deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the company shall deliver or cause to be delivered to the borrower, or any one thereof, for each billing cycle at the end of which there is an outstanding balance in the account or with respect to which a finance charge is imposed, a statement setting forth the outstanding balance in the account at the beginning of the billing cycle, the date and amount of any subsequent loan advance during the period, the amounts and dates of crediting to the account during the billing cycle for payments, the amount of any finance charge debited to the account during the billing cycle, the annual percentage rate of finance charged determined under Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. 226), the balance on which the finance charge was computed, the closing date of the billing cycle, the outstanding balance on that date, and the minimum monthly payment required in the absence of any additional advance. If there has been any change in the nature of the security for the loan since the next preceding advance, the statement shall contain or be accompanied by a statement of the nature of the security for the loan after such change.

(k) An industrial loan company shall not take any instrument in connection with an open-end loan in which blanks are left to be filled in after execution.

(*l*) Subdivision (a) of Section 18205, and Sections 18206, 18214, 18222, 18231, and 18235 shall not apply to open-end loans.

(m) An industrial loan company shall not make an open-end loan secured by real property in whole or in part.

(n) An industrial loan company shall not charge for, offer or provide credit disability insurance in connection with an open-end loan.

(o) This section shall not apply to loans other than open-end loans.

SEC. 3. Section 18566 of the Financial Code is amended to read:

18566. As used in this chapter, "principal balance" means the difference between the amount of the premium and fees charged by the insurer or producer and the downpayment on the premium.

SEC. 4. Section 22051 of the Financial Code is amended to read:

22051. This division does not apply to the following:

(a) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(b) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee

products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business.

(c) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(d) Any corporation created pursuant to the provisions of Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

SEC. 5. Section 22207 of the Financial Code is amended to read:

22207. (a) The license shall state the name of the licensee, and if the licensee is a partnership, the names of its general partners, and if a corporation or an association, the date and place of its incorporation or organization and the address of the licensee's principal business location. On the approval and licensing of a location pursuant to Section 22201.1, the commissioner shall issue an original license endorsed to show the address of the authorized location and, if applicable, the name of the subsidiary corporation licensed to operate the location. The license shall state whether the licensee is licensed as a personal property broker or a broker.

(b) A license for a business location outside this state may be issued if the licensee agrees in writing in the license application to do, at the option of the applicant, one of the following:

(1) Make the licensee's books, accounts, papers, records, and files available to the commissioner or the commissioner's representatives in this state.

(2) Pay the reasonable expenses for travel, meals, and lodging of the commissioner or the commissioner's representatives incurred during any investigation or examination made at the licensee's location outside this state.

A licensee located outside this state is not required to maintain books and records regarding licensed loans separate from those for other loans if the licensed loans can be readily identified.

SEC. 6. Section 22455 of the Financial Code is amended to read:

22455. Except as provided in Section 22451.3 and in Article 3 (commencing with Section 22480) no charges on loans made pursuant to this division shall be paid, deducted, or received in advance, or compounded. However, if part or all of the consideration for a new loan contract is the unpaid balance of a prior loan, the principal amount payable under the new loan contract may include any unpaid interest which has accrued on the prior loan. The unpaid principal balance of a precomputed loan is the balance due after refund or credit of unearned interest as provided in Section 22480. The licensee shall deliver to or at the direction of the borrower at the time of making the loan an amount equal to the face value of the loan and the note evidencing the loan.

SEC. 7. Section 24051 of the Financial Code is amended to read:

24051. This division does not apply to the following:

(a) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(b) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business.

(c) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(d) Any corporation created pursuant to the provisions of Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

SEC. 8. Section 24207 of the Financial Code is amended to read:

24207 (a) The license shall state the name of the licensee, and if the licensee is a partnership, the names of its general partners, and if a corporation or an association, the date and place of its incorporation or organization and the address of the licensee's principal business location. On the approval and licensing of a location pursuant to Section 24201.1, the commissioner shall issue an original license endorsed to show the address of the authorized location and, if applicable, the name of the subsidiary corporation licensed to operate the location. The license shall state whether the licensee is licensed as a consumer finance lender or a broker.

(b) A license for a business location outside this state may be issued if the licensee agrees in writing in the license application to do, at the option of the applicant, one of the following:

(1) Make the licensee's books, accounts, papers, records, and files available to the commissioner or the commissioner's representatives in this state.

(2) Pay the reasonable expenses for travel, meals, and lodging of the commissioner or the commissioner's representatives incurred during any investigation or examination made at the licensee's location outside this state.

A licensee located outside this state is not required to maintain books and records regarding licensed loans separate from those for other loans if the licensed loans can be readily identified.

SEC. 9. Section 24056, as added to the Financial Code by Chapter 890 of the Statutes of 1984, is amended and renumbered to read:

24057. A license as a broker under this division does not authorize the licensee to negotiate or perform any act as a broker in connection with loans made or to be made by a lender not licensed as a consumer finance lender under this division.

SEC. 10. Section 24455 of the Financial Code is amended to read:

24455. Except as provided in Section 24451.3 and in Article 3

(commencing with Section 24480) no charges on loans made pursuant to this division shall be paid, deducted, or received in advance, or compounded. However, if part or all of the consideration for a new loan contract is the unpaid balance of a prior loan, the principal amount payable under the new loan contract may include any unpaid interest which has accrued on the prior loan. The unpaid principal balance of a precomputed loan is the balance due after refund or credit of unearned interest as provided in Section 24480. The licensee shall deliver to or at the direction of the borrower at the time of making the loan an amount equal to the face value of the loan and the note evidencing the loan.

SEC. 11. Section 26207 of the Financial Code is amended to read:

26207. (a) The license shall state the name of the licensee, and if the licensee is a partnership, the names of its general partners, and if a corporation or an association, the date and place of its incorporation or organization and the address of the licensee's principal business location. On the approval and licensing of a location pursuant to Section 26201.1, the commissioner shall issue an original license endorsed to show the address of the authorized location and, if applicable, the name of the subsidiary corporation licensed to operate the location.

(b) A license for a business location outside this state may be issued if the licensee agrees in writing in the license application to do, at the option of the applicant, one of the following:

(1) Make the licensee's books, accounts, papers, records, and files available to the commissioner or the commissioner's representatives in this state.

(2) Pay the reasonable expenses for travel, meals, and lodging of the commissioner or the commissioner's representatives incurred during any investigation or examination made at the licensee's location outside this state.

A licensee located outside this state is not required to maintain books and records regarding licensed loans separate from those for other loans if the licensed loans can be readily identified.

SEC. 12. Section 26452 of the Financial Code is amended to read:

26452. As used in this division, "open end credit program" means a licensee's plan for making open end loans pursuant to a loan agreement which sets forth the terms and conditions governing the use of the open end credit program and expressly states that it is made pursuant to this section and pursuant to which:

(a) The borrower may use the open end credit program to obtain money, goods, labor, or services on credit, and the licensee makes open end loans to the borrower for the purpose of paying money to, or at the direction of, the borrower or paying obligations that the borrower creates through use of the open end credit program.

(b) The amount of each advance and the charges and other permitted costs are debited to an account.

(c) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation

any unpaid charges other than permitted fees, costs, and expenses.

(d) The borrower has the privilege of paying the account in full at any time.

SEC. 13. Section 31 of Chapter 1082 of the Statutes of 1982 is amended to read:

Sec. 31. Any person licensed as a commercial finance lender pursuant to paragraph (1) of subdivision (a) of Section 30 may continue to collect and enforce any loan made as a personal property broker in accordance with the provisions of Division 9 (commencing with Section 22000) of the Financial Code.

CHAPTER 298

An act to add Section 23100.1 to, and to amend Section 23701.5 of, the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 23100.1 is added to the Education Code, to read:

23100.1. The system may dispense with the disbursement of any amount due a former member or nonmember, or with the collection of any amount due from a former member or nonmember, resulting from the refund of contributions pursuant to Section 23100, if the amount is ten dollars ($10) or less.

SEC. 2. Section 23701.5 of the Education Code is amended to read:

23701.5. (a) If the estate is the beneficiary, and if the estate need not be probated except for the payments due from the system, all of the amount due shall be paid directly without probate to the survivors of the deceased, or the guardians of the survivors' estates, share and share alike, payment to be made in the order in which the following groups are listed:

(1) Spouse.
(2) Children.
(3) Parents.
(4) Grandchildren.
(5) Brothers and sisters.
(6) Nieces and nephews.

No payment shall be made to persons included in any group if, at the date of payment, there are one or more living persons in any of the groups preceding it. Payment to the persons in any group, upon receipt from the persons of an affidavit upon a form supplied by the board, that there are no living individuals in the groups preceding

it and that the estate of the deceased will not be probated, shall fully and completely discharge and acquit the board and system on account of the death.

(b) The system may pay under Section 630 of the Probate Code any payments due from the system on account of the death if the affidavit submitted pursuant to Section 630 of the Probate Code includes a statement that there are no living persons entitled to payment under subdivision (a). Payment made in good faith upon receipt of an affidavit submitted pursuant to Section 630 of the Probate Code shall fully and completely discharge and acquit the board and system on account of the death.

CHAPTER 299

An act to amend Section 21340 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 21340 of the Government Code is amended to read:

21340. Notwithstanding any provision of this part, a retired member who chose no optional settlement or optional settlement one at retirement may elect to have the actuarial equivalent, as of the date of the election, of the allowance payable for the remainder of his or her lifetime applied to a lesser allowance during his or her remaining lifetime under one of the optional settlements specified in this article and name his or her spouse as beneficiary. For purposes of this section, "spouse" means a spouse who was married to the retired member after January 1, 1980. The election provided by this section is irrevocable and shall be made within one year after the person who is designated as beneficiary became a spouse, as defined by this section, or before July 1, 1983.

CHAPTER 300

An act relating to claims against the state, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. The sum of two hundred sixty-nine thousand dollars ($269,000) is hereby appropriated from the General Fund to the Attorney General to pay the settlement of the claim of the plaintiff against the State of California in the case entitled Grady v. County of Los Angeles, case number 293045, brought in the Superior Court of the State of California for the County of Los Angeles. Payment of the sum specified in this section shall be in accordance with the terms of the settlement reached by the plaintiff, the defendant State of California, and the defendant County of Los Angeles.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to pay the settlement arising out of the action brought by the plaintiff and to end the hardship to the plaintiff at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 301

An act to amend Sections 23703, 23710, 23711, and 23722 of the Government Code, relating to counties.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 23703 of the Government Code is amended to read:

23703. It shall be the duty of the county clerk, within 30 days after the filing of the petition, to examine the same, and to ascertain from the record of the registration of voters of the county, whether the petition is signed by the requisite number of eligible registered voters. If required by the clerk, the governing body shall authorize him to employ persons specially to assist him in the work of examining the petition, and shall provide for their compensation.

SEC. 2. Section 23710 of the Government Code is amended to

read:

23710. The proposed charter or revised charter shall be submitted by the governing body to the eligible registered voters of the county at a special election held on the next established election date not less than 88 days after the completion of the publication, or posting provided for in Section 23709.

SEC. 3. Section 23711 of the Government Code is amended to read:

23711. As an alternative to the procedure provided for in Sections 23700 through 23710 of this article, the governing body of any county, on its own motion may propose or cause to be proposed or revise or cause to be revised, a proposed charter and submit the proposal for adoption to the voters at either a special election called for that purpose or at any general or special election. Any charter so submitted shall be advertised in the same manner as provided for the advertisement of a charter proposed by a charter commission; and the election on such charter shall be held on the next established election date not less than 88 days after the completion of the advertising in the official paper.

SEC. 4. Section 23722 of the Government Code is amended to read:

23722. Upon the presentation of a petition, or upon its own submission of a proposal to amend or repeal the charter, the governing body shall submit the amendment or amendments proposed or the question of the repeal of the charter to the eligible registered voters of the county at a special election held on the next established election date not less than 88 days after the presentation of the petition, or submission of the proposal. In submitting the question of charter repeal or amendment, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

The county clerk shall cause the complete text of the proposed amendment or amendments to be printed and mailed, at least 10 days prior to the date of the election, to each eligible registered voter in the county. Such complete text is "official matter" within the meaning of Section 10010 of the Elections Code. The county clerk shall also prepare and mail to each eligible registered voter in the county a sample ballot. The sample ballot shall be mailed with and at the same time as the complete text of the proposed amendment or amendments.

CHAPTER 302

An act to amend Sections 318 and 366.25 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 318 of the Welfare and Institutions Code is amended to read:

318. (a) Notwithstanding the provisions of Section 317, when a minor who is alleged to be a person described in subdivision (d) of Section 300 appears before the juvenile court at a detention hearing, the court shall appoint counsel. The court may appoint the county counsel to represent the minor, if there is no conflict of interest between the county and the minor, or the district attorney pursuant to Section 351.

(b) The counsel appointed by the court shall represent the minor at the detention hearing and at all subsequent proceedings before the juvenile court.

(c) Any counsel upon entering an appearance on behalf of a minor shall continue to represent that minor unless relieved by the court upon the substitution of other counsel or for cause.

(d) The counsel shall be charged in general with the representation of the child's interests. To that end, counsel shall make such further investigations as he or she deems necessary to ascertain the facts, including the interviewing of witnesses, and he or she shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings; he or she may also introduce and examine his or her own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. In addition, the counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding and report to the court other interests of the child that may be protected by other administrative or judicial proceedings, including but not limited to, a civil action pursuant to subdivision (b) of Section 11172 of the Penal Code. The court shall take whatever appropriate action is necessary to fully protect the interests of the child.

(e) Notwithstanding any other provision of law, counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. Counsel shall be given access to records maintained by hospitals or by other medical or nonmedical practitioners or by child care custodians, in the manner prescribed by Section 1158 of the Evidence Code.

SEC. 2. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original

dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or Section 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366. In the case of a minor who has been removed from his or her parent or guardian pursuant to paragraph (5) of subdivision (b) of Section 361 because of severe physical abuse, and concerning whom the court has found, pursuant to subdivision (c) of Section 366, that return of the minor to his or her parent or guardian would be detrimental to the minor, a permanency planning hearing shall be held immediately upon the making of such a finding, or as soon thereafter as is reasonably feasible.

(b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

(c) Except in cases where permanency planning is conducted pursuant to subdivision (c) of Section 366, the court shall first determine at the hearing whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it shall set another review hearing for not more than six months, which shall be a permanency planning hearing. In the case of a minor who has been removed from the physical custody of his or her parent or guardian because of severe physical abuse pursuant to paragraph (5) of subdivision (b) of Section 361, and concerning whom the court has found pursuant to subdivision (c) of Section 366 that attempts at reunification with his or her parent or guardian would be detrimental, the court shall not continue proceedings for further review pursuant to this subdivision.

(d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

(1) If the court finds that it is likely that the minor can or will be adopted, the court shall authorize the appropriate county or state agency to proceed to free the minor from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil

Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that it is not likely that the minor can or will be adopted or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) applies, the court shall order the appropriate county department to initiate or facilitate the placement of the minor in a home environment that can be reasonably expected to be stable and permanent. This may be accomplished by initiating legal guardianship proceedings or long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is in a foster home and the foster parents are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents.

(3) (A) If the court finds that it is not likely that the minor can or will be adopted, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed homefinding agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

(B) The licensed homefinding agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed homefinding agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the homefinding agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a homefinding agency shall not be eligible for foster care maintenance payments or child

welfare services, except for emergency response services pursuant to Section 16504.

(C) Notwithstanding the provisions of subdivision (j), subsequent reviews for these minors shall be conducted every six months by the court. The licensed homefinding agency shall be required to submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

(e) Notwithstanding Section 1510 of the Probate Code, the proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court. In such a case, the juvenile court may appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

(f) When an adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor.

(g) Periodic reviews conducted by the court subsequent to the initial permanency planning hearing shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.

(h) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of such periods.

(i) Subsequent permanency planning hearings need not be held if (1) the child has been freed for adoption and placed in the adoptive home identified in the previous permanency planning hearing and is awaiting finalization of the adoption or (2) the child is a ward of a guardian.

(j) Subsequent reviews shall be conducted every six months and be conducted by an administrative review board except when the court requires a court review or a court review is requested by the minor's parents or guardian or by the minor.

(k) Notwithstanding any other provision of law, the application of any person who, as a foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

CHAPTER 303

An act to amend Section 4700.7 of the Civil Code, relating to family law.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 4700.7 of the Civil Code is amended to read:

4700.7. In any proceeding involving child support or spousal support, no party to the proceeding may refuse to submit copies of his or her state income tax returns to the court, whether individual or joint. The tax returns may be examined by the other party and are discoverable by the other party. A party also may be examined by the other party as to the contents of a tax return so submitted. If the judge finds that it is relevant to the case to retain the tax return, the tax return shall be sealed and maintained as a confidential record of the court. If the court finds that the tax return is not relevant to disposition of the case, all copies of the tax return shall be returned to the party that submitted it.

CHAPTER 304

An act to amend Section 129 of the Code of Civil Procedure, to amend Sections 27491, 27491.1, 27491.2, and 27491.3 of the Government Code, and to amend Section 10250 of the Health and Safety Code, relating to coroners.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 129 of the Code of Civil Procedure is amended to read:

129. Notwithstanding any other provision of law, no copy, reproduction, or facsimile of any kind shall be made of any photograph, negative, or print, including instant photographs and video tapes, of the body, or any portion of the body, of a deceased person, taken by or for the coroner at the scene of death or in the course of a post mortem examination or autopsy made by or caused to be made by the coroner, except for use in a criminal action or proceeding in this state which relates to the death of that person, or except as a court of this state permits, by order after good cause has been shown and after written notification of the request for the court order has been served, at least five days before the order is made,

upon the district attorney of the county in which the post mortem examination or autopsy has been made or caused to be made.

This section shall not apply to the making of such a copy, reproduction, or facsimile for use in the field of forensic pathology, for use in medical, or scientific education or research, or for use by any law enforcement agency in this or any other state or the United States.

This section shall apply to any such copy, reproduction, or facsimile, and to any such photograph, negative, or print, heretofore or hereafter made.

SEC. 2. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths wherein the deceased has not been attended by a physician in the 20 days before death; deaths related to or following known or suspected self-induced or criminal abortion; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape or crime against nature; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state mental hospitals serving the mentally disabled and operated by the State Department of Mental Health; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under such circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

In any case in which the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of his or her report to the state agency responsible for the state hospital.

The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to

sign the certificate of death.

For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

Any funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. Any person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 3. Section 27491.1 of the Government Code is amended to read:

27491.1. In all cases in which a person has died under such circumstances as to afford a reasonable ground to suspect that the person's death has been occasioned by the act of another by criminal means, the coroner, upon determining that such reasonable grounds exist, shall immediately notify the law enforcement agency having jurisdiction over the criminal investigation. Notification shall be made by the most direct communication available. The report shall state the name of the deceased person, if known, the location of the remains, and all other information received by the coroner relating to the death.

SEC. 4. Section 27491.2 of the Government Code is amended to read:

27491.2. (a) The coroner or the coroner's appointed deputy, on being informed of a death and finding it to fall into the classification of deaths requiring his or her inquiry, may immediately proceed to where the body lies, examine the body, make identification, make inquiry into the circumstances, manner, and means of death, and, as circumstances warrant, either order its removal for further investigation or disposition or release the body to the next of kin.

(b) For purposes of inquiry, the body of one who is known to be dead from any of the causes or under any of the circumstances described in Section 27491 shall not be disturbed or moved from the position or place of death without permission of the coroner or the coroner's appointed deputy. Any violation of this subdivision is a misdemeanor.

SEC. 5. Section 27491.3 of the Government Code is amended to read:

27491.3. (a) In any death into which the coroner is to inquire, the coroner may take charge of any and all personal effects, valuables, and property of the deceased at the scene of death or related to the inquiry and hold or safeguard them until lawful disposition thereof can be made. The coroner may lock the premises and apply a seal to the door or doors prohibiting entrance to the premises, pending arrival of a legally authorized representative of the deceased. However, this shall not be done in such a manner as to interfere with the investigation being conducted by other law enforcement agencies. Any costs arising from the premises being locked or sealed while occupied by property of the deceased may be a proper and

legal charge against the estate of the deceased. Unless expressly permitted by law, any person who enters any premises or tampers with or removes any lock or seal in violation of this section is guilty of a misdemeanor.

(b) Any property or evidence related to the investigation or prosecution of any known or suspected criminal death may, with knowledge of the coroner, be delivered to a law enforcement agency or district attorney, receipt for which shall be acknowledged.

(c) Except as otherwise provided in subdivision (d), any person who searches for or removes any papers, moneys, valuable property or weapons constituting the estate of the deceased from the person of the deceased or from the premises, prior to arrival of the coroner or without the permission of the coroner, is guilty of a misdemeanor. At the scene of any death, when it is immediately apparent or when it has not been previously recognized and the coroner's examination reveals that police investigation or criminal prosecution may ensue, the coroner shall not further disturb the body or any related evidence until the law enforcement agency has had reasonable opportunity to respond to the scene, if their purposes so require and they so request. Custody and control of the body shall remain with the coroner at all times. Reasonable time at the scene shall be allowed by the coroner for criminal investigation by other law enforcement agencies, with the time and location of removal of the remains to a convenient place to be determined at the discretion of the coroner.

(d) A peace officer may search the person or property on or about the person of the deceased, whose death is due to a traffic accident, for a driver's license or identification card to determine if an anatomical donor card is attached. If a peace officer locates such an anatomical donor card which indicates that the deceased is an anatomical donor, the peace officer shall immediately furnish such information to the coroner having jurisdiction.

"Peace officer," as used in this subdivision, means only those persons designated in Sections 830.1 and 830.2 of the Penal Code.

SEC. 6. Section 10250 of the Health and Safety Code is amended to read:

10250. A physician, funeral director, or other person shall immediately notify the coroner when he or she has knowledge of a death which occurred or has charge of a body in which death occurred under any of the following circumstances:

(a) Without medical attendance.

(b) During the continued absence of the attending physician.

(c) Where the attending physician is unable to state the cause of death.

(d) Where suicide is suspected.

(e) Following an injury or an accident.

(f) Under such circumstances as to afford a reasonble ground to suspect that the death was caused by the criminal act of another.

Any person who does not notify the coroner as required by this

section is guilty of a misdemeanor.

SEC. 7. 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. 8. 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 305

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

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. The Legislature hereby finds and declares that:

(a) The Wildlife Waystation is a nonprofit organization which operates a 160-acre compound for some 500 lost, abandoned, and mistreated wild animals in Los Angeles County.

(b) The waystation serves a statewide public purpose in providing temporary shelter and rehabilitation for wild animals, and the grant provided by this act is necessary to the continued operation of the waystation.

SEC. 2. (a) The sum of three hundred thousand dollars ($300,000) is hereby appropriated from the California Environmental License Plate Fund to the Department of Fish and Game for a grant to the Wildlife Waystation in Los Angeles County for the purpose of making improvements necessary to protect the health and safety of the wild animals temporarily located at the Wildlife Waystation, in accordance with a plan approved by the Department of Fish and Game.

(b) None of the funds appropriated by this section may be encumbered unless and until:

(1) The Director of Fish and Game has determined that the funds appropriated in subdivision (a) are required by the Wildlife Waystation in order to effectuate the purposes of this act.

(2) The plan referred to in subdivision (a) has been approved and the present owner has transferred, subject to any encumbrance existing on or before July 9, 1985, title to the 20 acres, including all

improvements, on which the facilities of the Wildlife Waystation are situated, to the Wildlife Waystation, Inc., a California nonprofit corporation. If the 20 acres are ever transferred to any natural person or corporation, other than a successor corporation that is a California nonprofit corporation, title to the 20 acres and all improvements thereon shall become vested in the state.

(c) The Director of Fish and Game shall be authorized to review the financial records of the Wildlife Waystation to the extent necessary to effectuate the provisions of paragraph (1) of subdivision (b).

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

In order to fund, as soon as possible, urgently needed improvements to Wildlife Waystation property which will permit the continued operation of the organization's wildlife compound, it is necessary that this act take effect immediately.

CHAPTER 306

An act to add Sections 34312.4 and 34350.2 to the Health and Safety Code, relating to housing authorities.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 34312.4 is added to the Health and Safety Code, to read:

34312.4. (a) Subject to the requirements of Article 5 (commencing with Section 34350), for purposes of implementing a home financing program an authority has the following powers and duties:

(1) To acquire, contract, and enter into advance commitments to acquire, home mortgages made or owned by lending institutions at the purchase prices and upon the other terms and conditions as shall be determined by the authority or other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages and to pay the reasonable value of services rendered under those contracts. Prior to executing any contract with a lending institution, an authority shall adopt regulations establishing criteria for qualification of lending institutions eligible to originate and service home mortgages under home financing programs authorized by this section and shall, with respect to each home financing program, permit each qualified lending institution which transacts business in the area of operation

of the authority the opportunity to participate in the program on an equitable basis with other participating lending institutions.

(2) To make loans to lending institutions under terms and conditions which, in addition to other provisions as determined by the authority, shall require the lending institutions to use all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount equal to the amount of the net proceeds.

(3) To establish, by rules or regulations, in resolutions relating to any issuance of bonds or in any documents relating to the issuance, standards, and requirements applicable to the purchase of home mortgages or the making of loans to lending institutions the authority deems necessary or desirable to effectuate the purposes of this section, which may include without limitation any of the following:

(A) The time within which lending institutions are required to make commitments and disbursements for home mortgages.

(B) The location and other characteristics of homes to be financed by home mortgages.

(C) The terms and conditions of home mortgages to be acquired.

(D) The amounts and types of any insurance coverage required on homes, home mortgages, and bonds.

(E) The representations and warranties of lending institutions confirming compliance with the standards and requirements.

(F) Restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions.

(G) The type and amount of collateral security to be provided to assure repayment of any loans from the authority and to ensure repayment of bonds.

(H) Any other matters related to the purchase of home mortgages or the making of loans to lending institutions deemed relevant by the authority.

(4) To require from each lending institution from which home mortgages are purchased or to which loans are made the submission of evidence satisfactory to the authority of the ability and intention of the lending institution to make home mortgages, and the submission, within the time specified by the authority for making disbursements for home mortgages, of evidence satisfactory to the authority of the making of home mortgages and of compliance with any standards and requirements established by the authority.

(b) Each authority which finances housing pursuant to this section shall designate a person or entity to administer the program.

(c) Each authority which finances housing pursuant to this section shall adopt regulations establishing criteria for the qualification of persons and families, which may differ among different areas of operation of authorities to reflect varying economic and housing conditions. In developing this criteria, factors similar to the following shall be taken into consideration:

(1) The amount of the income of the person or family that is available for housing needs.

(2) The size of the household.

(3) The costs and condition of available housing.

(4) The eligibility of the persons or families for federal housing assistance of any type.

(d) Criteria for qualification of persons and families pursuant to this section shall include a maximum household income, which maximum shall not exceed the following:

(1) One hundred twenty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families shall also be 120 percent of the median household income.

(2) The median household income where the purchaser will not be the first occupant. However, the authority shall ensure that no less than one-half of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 80 percent of that median household income. However, the authority may, by resolution, increase this income limitation to 90 percent of median household income if the authority finds that there are insufficient numbers of creditworthy persons whose income does not exceed 80 percent of median household income. The resolution is final and conclusive as to the findings required by this paragraph.

(3) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and which is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this section.

As used in this subdivision, "median household income" means the highest of (A) statewide median household income, (B) countywide median household income, or (C) median family income for area as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(e) Each authority which finances housing pursuant to this section

shall allocate no less than 60 percent of the dollar amount of its financing from bond proceeds to fund loans for the purchase of homes where the purchaser will be the first occupant, or for substantial rehabilitation. As used in this section, "substantial rehabilitation" means rehabilitation in which the costs of rehabilitation equal or exceed 20 percent of the value of the structure after rehabilitation.

(f) Each authority which finances housing pursuant to this section shall require each mortgagor under the program to certify his or her intention to occupy the home for a minimum of two years after receiving a home mortgage, with appropriate exceptions in hardship cases, as determined by the authority.

(g) Notwithstanding Section 711 of the Civil Code, any indebtedness incurred pursuant to a mortgage financed under the terms of this section shall be subject to acceleration and the balance owing declared immediately due and payable upon the sale of the home to a purchaser who does not meet the required qualifications for borrowers of subdivision (c) or any more stringent qualifications as the authority may require.

(h) Each authority may do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this part.

SEC. 2. Section 34350.2 is added to the Health and Safety Code, to read:

34350.2. A housing authority may not issue bonds pursuant to Section 34312.4 unless it has received an allocation of qualified mortgage bonds pursuant to Section 50193, and has complied with the applicable provisions of Chapter 3.5 (commencing with Section 50171) of Part 1 of Division 31.

CHAPTER 307

An act to add Sections 25105.5, 29125.1, and 50115 to the Government Code, relating to cities and counties.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 25105.5 is added to the Government Code, to read:

25105.5. The clerk of the board of supervisors may, without complying with any other provision of law, destroy records consisting of assessment appeals applications and claims against the county or claims against special districts for which the board of supervisors is the governing body, whenever the applications or claims have been retained by the clerk for a period of not less than five years after final

action on the application or claim.

As used in this section "final action" means, in the case of an assessment appeals application, the date of the final decision by the assessment appeals board and, in the case of a claim, the date of payment or settlement of the claim, or denial or approval of the claim by or in behalf of the board of supervisors or by operation of law, whichever occurs first, if there is no action pending involving the application or claim.

SEC. 2. Section 29125.1 is added to the Government Code, to read:

29125.1. In a county with a population of 500,000 or more, by an action formally adopted by the board at a regular or special meeting and entered in its minutes, the board may approve the addition of fixed assets, specified as to the general class and respective quantity, to the fixed assets identified in the resolution of adoption of the budget. The board may designate a county official to approve those additions to fixed assets which do not exceed two thousand five hundred dollars ($2,500) per purchase. At least monthly, the official shall report to the board any purchases made pursuant to this section.

SEC. 3. Section 50115 is added to the Government Code, to read:

50115. Unless another provision of law requires a longer retention period, the clerk of the legislative body may destroy or otherwise dispose of any paper or document filed with or submitted to the legislative body more than one year previously, unless the legislative body determines that there is a need for its retention. In determining whether there is a need for retaining a paper or document, consideration shall be given to such factors as future public need, the effect of statutes of limitation, and historical significance.

CHAPTER 308

An act to add Section 861.5 to the Penal Code, relating to criminal procedure.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 861.5 is added to the Penal Code, to read:

861.5. Notwithstanding subdivision (a) of Section 861, the magistrate may postpone the preliminary examination for one court day in order to accommodate the special physical, mental, or emotional needs of a child witness who is 10 years of age or younger.

The magistrate shall admonish both the prosecution and defense against coaching the child witness prior to the witness' next appearance in the preliminary examination.

CHAPTER 309

An act to amend Section 1346 of the Penal Code, relating to preliminary examinations.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 1346 of the Penal Code is amended to read:

1346. (a) When a defendant has been charged with a violation of Section 243.4, 261, 261.5, 264.1, 273a, 273d, 285, 286, 288, 288a, or 289, where the victim is a person 15 years of age or less, the people may apply for an order that the victim's testimony at the preliminary hearing, in addition to being stenographically recorded, be recorded and preserved on video tape.

(b) The application for the order shall be in writing and made three days prior to the preliminary hearing.

(c) Upon timely receipt of the application, the magistrate shall order that the testimony of the victim given at the preliminary hearing be taken and preserved on video tape. The video tape shall be transmitted to the clerk of the court in which the action is pending.

(d) If at the time of trial the court finds that further testimony would cause the victim emotional trauma so that the victim is medically unavailable or otherwise unavailable within the meaning of Section 240 of the Evidence Code, the court may admit the video tape of the victim's testimony at the preliminary hearing as former testimony under Section 1291 of the Evidence Code.

(e) Any video tape which is taken pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the victim. This subdivision does not affect the provisions of subdivision (b) of Section 868.7.

(f) Any video tape made pursuant to this section shall be made available to the prosecuting attorney, the defendant, and his or her attorney for viewing during ordinary business hours. Any video tape which is made available pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the victim.

(g) The tape shall be destroyed after five years have elapsed from the date of entry of judgment; provided, however, that if an appeal is filed, the tape shall not be destroyed until a final judgment on appeal has been rendered.

CHAPTER 310

An act to amend Sections 5, 6, and 7 of, and to add Section 6.6 to, the Storm Water District Act of 1909 (Chapter 222 of the Statutes of 1909), relating to storm water districts.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 5 of the Storm Water District Act of 1909 (Chapter 222 of the Statutes of 1909) is amended to read:

Sec. 5. Each storm water district shall be under the control of three trustees, to be elected as hereinafter provided, who shall constitute the governing board thereof. Each trustee shall be a freeholder of the district and shall have resided therein at least one year next preceding his or her election; provided, however, that when unincorporated territory is included with incorporated territory in the district, at least one of the trustees shall be an eligible freeholder of the unincorporated territory, if an eligible person resides in the unincorporated territory, and shall post a bond in the sum the board of supervisors who formed the district determines. The bond shall be approved by a superior judge of the county and filed with the county clerk thereof. The trustees, except those first elected, shall take office at noon of the last Friday of the November in which they were elected, and shall hold office for the term of four years and until their successors are elected and qualified.

SEC. 2. Section 6 of the Storm Water District Act of 1909 (Chapter 222 of the Statutes of 1909) is amended to read:

Sec. 6. Upon the formation of the storm water district, the board of supervisors shall call an election therein for the election of three trustees of the district. Notice of the election, stating the time, place or places and purpose thereof, and the names of the election officers shall be given by the board of supervisors by publication in a newspaper of general circulation designated by the board of supervisors and published in the county, for two weeks before the election. The election shall, except as herein otherwise provided, be held in conformity to the law for holding special elections, as to matters provided for thereby, and as to other matters in conformity to the general district elections, so far as applicable; but no sample ballots shall be sent out. The election board shall count the votes as soon as the polls are closed, and forward the returns of the election to the board of supervisors. The board of supervisors at their next regular meeting thereafter shall canvass the returns, and issue certificates of election to the persons elected. The board of trustees so elected shall meet and organize on the next Monday after their certificates of election are issued to them, and shall hold office for the term provided by Section 23506 of the Elections Code. All

subsequent elections of trustees shall be held at the times and in the manner provided in the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code). The trustees elected at the first general district election held after January 1, 1986, or at the first general district election held after the formation of a district shall meet as soon as practicable to determine their respective terms of office in the manner provided in subdivision (c) of Section 23506 of the Elections Code. Should a vacancy occur or be found to exist in the office of trustee, the board of trustees shall submit to the board of supervisors a list of suggested appointees, and the board of supervisors shall fill the vacancy by appointment. If the board of supervisors does not make the appointment from the list submitted by the board of trustees, it shall make a finding stating the reasons for its selection. An appointee shall possess the same qualifications as are required by this act for trustees.

SEC. 3. Section 6.6 is added to the Storm Water District Act of 1909 (Chapter 222 of the Statutes of 1909), to read:

Sec. 6.6. (a) At any time after one year from the date of the formation of a district, and from time to time thereafter, but not less than 120 days before a general district election, the board of trustees may, by resolution, increase the number of trustees to serve on the board to five and may designate the first additional trustees to serve on the enlarged board. A notice of the vacancies shall be posted in three or more conspicuous places in the district at least 15 days before any appointment is made pursuant to this subdivision. The board of trustees shall determine the term of office of each of the new trustees so appointed, but in no event shall the term designated by the board be for more than four years. The terms of office thus created shall be determined in such a manner as to keep as nearly equal as practicable the number of trustees to be elected at each subsequent general district election. Upon the expiration of the term so designated by the board of trustees, the office shall be filled at the next general district election and general district elections held thereafter for the election of officers of the district. The term of office of each trustee elected at a general district election is four years or until his or her successor qualifies and takes office.

(b) At any time after the adoption of a resolution pursuant to subdivision (a), the resolution may be repealed by a unanimous vote of the trustees. Immediately upon the effective date of the repeal of the resolution, the additional offices created by the resolution shall be deemed vacated and abolished.

SEC. 4. Section 7 of the Storm Water District Act of 1909 (Chapter 222 of the Statutes of 1909) is amended to read:

Sec. 7. Each trustee shall receive compensation in an amount not to exceed one hundred dollars ($100) per day for each day's attendance at meetings of the board of trustees or for each day's service rendered as a trustee by request of the board of trustees, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his or her duties required

or authorized by the board. The trustees shall elect one of their own number president. They shall appoint a clerk, who shall hold office at their pleasure, and receive such compensations as they may fix. They shall establish and keep an office in or near the district for the transaction of the business thereof, at which all books, records, and papers of the district shall be kept and be open to public inspection at all reasonable times. They shall hold regular meetings at such office, at such times as they shall by order prescribe. Special meetings may be held on written order of any two trustees and two days written notice to any trustee not joining in the order. The order shall specify the business for which the special meeting is called and no other business shall be transacted at that meeting.

CHAPTER 311

An act to amend Section 12028.5 of the Penal Code, relating to weapons.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 12028.5 of the Penal Code is amended to read:

12028.5. (a) As used in this section, the following words have the following meanings:

(1) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(2) "Domestic violence" is abuse perpetrated against a family or household member.

(3) "Family or household member" means a spouse, former spouse, parent, child, any other person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the last six months, regularly resided in the household.

(b) A sheriff, undersheriff, deputy sheriff, or police officer of a city, as defined in subdivision (a) of Section 830.1, a member of the University of California Police Department, as defined in subdivision (d) of Section 830.2, and a member of a California State University Police Department, as defined in subdivision (e) of Section 830.2, who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, may take temporary custody of any firearm described in Section 12001 in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a

firearm, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm and list any identification or serial number on the firearm. The receipt shall indicate where the firearm can be recovered and the date after which the owner or possessor can recover the firearm. No firearm shall be held less than 48 hours. If a firearm is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed, the firearm shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure.

(c) Any firearm which has been taken into custody which has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm and proof of ownership.

(d) Any firearm taken into custody and held by a police or sheriff's department for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028.

CHAPTER 312

An act to amend Sections 22511.8, 22652, and 22658 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 22511.8 of the Vehicle Code is amended to read:

22511.8. (a) Any local authority, by ordinance or resolution, and any person in lawful possession of an offstreet parking facility may designate stalls or spaces in an offstreet parking facility owned or operated by the local authority or person for the exclusive use of vehicles which display a distinguishing license plate or a placard issued pursuant to Section 22511.5 or 22511.9. The designation shall be made in either of the following ways:

(1) By posting immediately adjacent to, and visible from, each stall or space, a sign consisting of a profile view of a wheelchair with occupant in white on a blue background.

(2) By outlining or painting the stall or space in blue and outlining on the ground in the stall or space in white or suitable contrasting color a profile view depicting a wheelchair with occupant.

(b) If posted in accordance with subdivision (d) or (e), the owner or person in lawful possession of a privately owned or operated

offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) for physically handicapped persons in the facility to the nearest public garage unless the vehicle is displaying one of the distinguishing placards or license plates issued pursuant to Section 22511.5 or 22511.9.

(c) If posted in accordance with subdivision (d), the local authority owning or operating an offstreet parking facility, after notifying the police or sheriff's department, may cause the removal of a vehicle from a stall or space designated pursuant to subdivision (a) for physically handicapped persons in the facility to the nearest public garage unless the vehicle is displaying one of the distinguishing placards or license plates issued pursuant to Section 22511.5 or 22511.9.

(d) The posting required for an offstreet parking facility owned or operated either privately or by a local authority shall consist of a sign not less than 17 by 22 inches in size with lettering not less than one inch in height which clearly and conspicuously states the following: "Unauthorized vehicles not displaying distinguishing placards or license plates issued for physically handicapped persons will be towed away at owner's expense. Towed vehicles may be reclaimed at

_____or by telephoning
(Address)

_____."
(Telephone number of local law enforcement agency)

The sign shall be posted in either of the following locations:

(1) Immediately adjacent to, and visible from, the stall or space.

(2) In a conspicuous place at each entrance to the offstreet parking facility.

(e) If the parking facility is privately owned and public parking is prohibited by the posting of a sign meeting the requirements of paragraph (1) of subdivision (a) of Section 22658, the requirements of subdivision (b) may be met by the posting of a sign immediately adjacent to, and visible from, each stall or space indicating that a vehicle not meeting the requirements of subdivision (a) will be removed at the owner's expense and containing the telephone number of the local traffic law enforcement agency.

(f) This section does not restrict the privilege granted to disabled veterans by Section 22511 and to disabled persons by Section 22511.5.

SEC. 2. Section 22652 of the Vehicle Code is amended to read:

22652. Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any regularly employed and salaried employee engaged in directing traffic or enforcing parking laws and regulations of a city or county, may remove any vehicle from a stall or space

designated for physically handicapped persons pursuant to Section 22511.7 or 22511.8, located within the jurisdictional limits in which the officer or employee is authorized to act, if the vehicle is parked in violation of Section 22507.8 and if the police or sheriff's department or the Department of the California Highway Patrol has been notified.

In a privately or publicly owned or operated offstreet parking facility, this section applies only to those stalls and spaces if the posting requirements under subdivisions (a) and (d) of Section 22511.8 have been complied with and if the stalls or spaces are clearly signed or marked.

SEC. 3. Section 22658 of the Vehicle Code is amended to read:

22658. (a) The owner or person in lawful possession of any private property may, subsequent to notifying, by telephone or, if impractical, by the most expeditious means available, the city police or county sheriff, whichever is appropriate, cause the removal of a vehicle parked on the property to the nearest public garage under either of the following conditions:

(1) There is displayed, in plain view at each entrance to the property, a sign not less than 17 by 22 inches in size with lettering not less than one inch in height prohibiting public parking and indicating that unauthorized vehicles will be removed at the owner's expense and containing the telephone number of the local traffic law enforcement agency. The sign may also indicate that a citation may also be issued for the violation.

(2) The lot or parcel upon which the vehicle is parked is improved with a single-family dwelling.

(b) The person causing removal of the vehicle pursuant to subdivision (a) shall, if the person knows or is able to ascertain from the registration records of the Department of Motor Vehicles the name and address of the registered and legal owner thereof, immediately give, or cause to be given, notice in writing to the registered and legal owner of the fact of the removal, the grounds for the removal, and indicate the place to which the vehicle has been removed. If the vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage. The notice provided for in this section shall include the amount of mileage on the vehicle at the time of removal. If the person does not know and is not able to ascertain the name of the owner or, for any other reason, is unable to give the notice to the owner as provided in this section, the person causing removal of the vehicle shall comply with the requirements of subdivision (c) of Section 22853 relating to notice in the same manner as applicable to an officer removing a vehicle from private property.

(c) This section does not limit or affect any right or remedy which the owner or person in lawful possession of private property may have by virtue of other provisions of law authorizing the removal of a vehicle parked upon private property.

(d) The owner of a vehicle removed from private property

pursuant to subdivision (a) may recover for any damage to the vehicle resulting from any intentional or negligent act of any person causing the removal of, or removing, the vehicle.

(e) The owner or person in lawful possession of any private property causing the removal of a vehicle parked on that property is liable for any storage or towing charges whenever there has been a failure to post a sign as required by subdivision (a).

(f) The owner or person in lawful possession of any private property causing the removal of a vehicle parked on that property shall state the grounds for the removal of the vehicle if requested by the legal or registered owner of that vehicle. Any towing company that removes a vehicle from private property with the authorization of the property owner or the property owner's agent shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes the vehicle under this section shall be responsible for both of the following:

(1) Any damage to the vehicle in the transit and subsequent storage of the vehicle pursuant to subdivision (d).

(2) The removal of a vehicle other than the vehicle specified by the owner or other person in lawful possession of the private property.

(g) Possession of any vehicle under this section shall be deemed to arise when a vehicle is removed from private property and is in transit.

CHAPTER 313

An act to add Section 1203.1g to the Penal Code, relating to criminal law.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 1203.1g is added to the Penal Code, to read:

1203.1g. In any case in which a defendant is convicted of sexual assault on a minor, and the defendant is eligible for probation, the court as a condition of probation, may order him or her to make restitution for the costs of medical or psychological treatment incurred by the victim as a result of the assault and that he or she seek and maintain employment and apply that portion of his or her earnings specified by the court toward those costs.

As used in this section, "sexual assault" has the meaning specified in Section 11165. The defendant is entitled to a hearing concerning any modification of the amount of restitution based on the costs of medical and psychological treatment incurred by the victim

subsequent to the issuance of the order of probation.

CHAPTER 314

An act to amend Section 35580 of the Water Code, and to add Section 4.13 to the Yuba County Water Agency Act (Chapter 788 of the Statutes of 1959), relating to special districts.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 35580 of the Water Code is amended to read:

35580. This chapter applies only to the Chowchilla Water District, the La Branza Water District, the Rock Creek Water District, and the Tea Pot Dome Water District. The Biggs-West Gridley Water District, the Butte Water District, and the Sutter Extension Water District may also exercise the powers granted by this chapter to construct, maintain, and operate one or more plants for the generation of hydroelectric power on the Thermolito Afterbay of the Oroville Dam Project of the State Water Resources Development System.

The power to construct, operate, and maintain works to develop hydroelectric energy does not include, and nothing in this chapter authorizes, the acquisition of property already employed in the generation of hydroelectric energy for public utility purposes except by mutual agreement between the district and the owner of that property.

SEC. 2. Section 4.13 is added to the Yuba County Water Agency Act (Chapter 788 of the Statutes of 1959), to read:

Sec. 4.13. The agency may develop hydroelectric alternate energy supply sources under 75 megawatts in accordance with Chapter 3.2 (commencing with Section 4217.10) of Division 5 of Title 1 of the Government Code.

SEC. 3. The Biggs-West Gridley Water District, the Butte Water District, and the Sutter Extension Water District have a potential source of hydroelectric power in their water facilities which can be generated as an incident to the operation of those facilities. This incidental source of hydroelectric power is not common to other California water districts. The Legislature therefore finds and declares that a special law is necessary with respect to the Biggs-West Gridley Water District, the Butte Water District, and the Sutter Extension Water District, that the provisions of Section 1 of this act are needed to meet special circumstances within those districts, and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 4. Sections 1 and 3 of this act shall not become operative if Senate Bill 245 of the 1985–86 Regular Session is enacted and becomes operative.

CHAPTER 315

An act to amend Sections 8894, 8961.4, 8961.6, 8990, 8991, and 9004 of the Health and Safety Code, relating to public cemetery districts.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 8894 of the Health and Safety Code is amended to read:

8894. "Nonresident fee," as used in this part, means a fee established by the trustees which meets the following criteria:

(a) The fee shall be established at an amount which will permit that portion of the cemetery in which the grave is located to be maintained on a self-supporting basis and shall be in an amount which will at least reimburse the district for the cost of the grave and the cost of services.

(b) The fee shall include a surcharge of at least 15 percent of the amount required by subdivision (a).

(c) The fee shall also include a deposit to the endowment care fund which shall be established by the trustees in an amount not less than the minimum amount set forth in Section 8738 or any amendments thereto. The amount of the deposits shall not be greater than the amount which is required to produce sufficient income to defray actual costs of care and maintenance of the cemetery or cemeteries for which the endowment care fund has been established.

SEC. 2. Section 8961.4 of the Health and Safety Code is amended to read:

8961.4. The board of trustees shall establish rates to be charged for burials within cemeteries of the district, which rates shall, insofar as possible, be established at an amount which will permit that portion of the cemetery in which the grave is located to be maintained on a self-supporting basis and shall be in an amount which will at least reimburse the district for the cost of the grave and the cost of services.

The board shall require a deposit in the endowment care fund which shall be established by the trustees in an amount not less than the minimum amount set forth in Section 8738 or any amendments thereto. The amount of the deposits shall not be greater than the amount which is required to produce sufficient income to defray actual costs of care and maintenance of the cemetery or cemeteries

for which the endowment care fund has been established.

SEC. 3. Section 8961.6 of the Health and Safety Code is amended to read:

8961.6. Notwithstanding the provisions of Sections 8961 to 8961.4, inclusive, a district may contract with the county in which the district is located to bury any nonresident indigents for the county if the trustees determine that there is more space available in the cemetery of the district than is necessary to meet the foreseeable needs of the district.

The contract shall require the county with which it is made to pay all costs incident to the burial of any indigent in the cemetery of the district and to pay a deposit in the endowment care fund in the amount established by the district and at least the minimum set forth in Section 8738 or any amendments thereto or to pay any future costs incurred by the district in maintaining the grave of the indigent.

SEC. 4. Section 8990 of the Health and Safety Code is amended to read:

8990. As soon after the first day of July as practicable, the trustees shall file with the board, or boards of supervisors if the district is situated in more than one county, a report, setting forth all their transactions during the fiscal year, and containing an itemized account of all their receipts and disbursements during the fiscal year, together with proper vouchers for them.

SEC. 5. Section 8991 of the Health and Safety Code is amended to read:

8991. The board of supervisors, or boards of supervisors if the district is situated in more than one county, may provide by an order entered upon the minutes of the board, or upon the minutes of each board, that, in lieu of the trustees reports required by Sections 8990 and 9004, the trustees shall file with the board, or each board, a verified copy of the audit report of the annual audit of the district made pursuant to Section 26909 of the Government Code. The copy shall be filed with the board or boards as soon after the first day of July as is practicable.

SEC. 6. Section 9004 of the Health and Safety Code is amended to read:

9004. The trustees shall include in the report filed pursuant to Section 8990 with the board or boards of supervisors of the county or counties in which the district is situated, an itemized report of the receipts and expenditures from the fund.

CHAPTER 316

An act to amend Sections 107, 455, 531.7, 568, 613, 614, 2188.7, 2189.5, 2189.6, 2190, 2191.6, 2610.5, 2768, 2853, 3101, 3107, 3381, 3382, 3691.1, 3692, 3695.4, 3698.5, 3710, 3712, 3721, 3727, 3728, 3729, 3731.1, 3773, 3793.5, 3799, 3802, 3805, 3807.5, 3841, 3950, 3951, 3952, 4102, 4109, 4110,

4112, 4113, 4131, 4154, 4156, 4157, 4216, 4217, 4218, 4221, 4222, 4223, 4373, 4378, 4379, 4656.5, 4671, 4671.3, 4672, 4672.1, 4672.2, 4673, 4673.1, 4674, 4675, 4676, 4703, 4704, 4709, 4710, 4711, 4713, 4717, 4803, 4832, 4834.5, 4837.5, 4838, 4839, 4839.1, 4986.6, 4991, 4992, 5088, 5090, and 5830 of, to amend and to renumber Section 3517 of, to repeal and add Section 3731 of, to repeal Sections 405.1, 565, 566, 567, 3730, 3730.1, and 4712 of, and to repeal Chapter 5.7 (commencing with Section 3618) of Part 6 of Division 1 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 107 of the Revenue and Taxation Code is amended to read:

107. "Possessory interests" means the following:

(a) Possession of, claim to, or right to the possession of land or improvements, except when coupled with ownership of the land or improvements in the same person.

(b) Taxable improvements on tax-exempt land.

Any possessory interest may, in the discretion of the county board of supervisors, be considered as sufficient security for the payment of any taxes levied thereon and may be placed on the secured roll.

Leasehold estates for the production of gas, petroleum and other hydrocarbon substances from beneath the surface of the earth, and other rights relating to these substances which constitute incorporeal hereditaments or profits a prendre, are sufficient security for the payment of taxes levied thereon. These estates and rights shall not be classified as possessory interests, but shall be placed on the secured roll.

If the tax on any possessory interest or leasehold estate for the production of gas, petroleum and other hydrocarbon substances is unpaid when any installment of secured taxes become delinquent, the tax collector may use those collection procedures which are available for the collection of assessments on the unsecured roll.

If the tax on any possessory interest or leasehold estate for the production of gas, petroleum and other hydrocarbon substances remains unpaid at the time set for the declaration of default for taxes carried on the secured roll, the possessory interest tax together with any penalty and costs which may be accrued thereon while on the secured roll shall be transferred to the unsecured roll.

SEC. 2. Section 405.1 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 455 of the Revenue and Taxation Code is amended to read:

455. The assessor shall not combine parcels into a single assessment when any of those parcels have been declared to be tax

defaulted for delinquent taxes. This section does not apply to subdivided land reverted to acreage in accordance with provisions of the Subdivision Map Act and local ordinances.

SEC. 4. Section 531.7 of the Revenue and Taxation Code is amended to read:

531.7. If property has not been legally assessable on the local secured roll for any year because the property has been tax deeded to a taxing agency other than the state, the property shall be deemed to have escaped assessment for that year and shall be subject to the provisions of this article if:

(a) The property has not been declared tax defaulted for delinquent taxes, and,

(b) The property has been redeemed from the tax sale and deed to the taxing agency, or

(c) The tax deed to the taxing agency has been held to be invalid and has been canceled; provided, however, that the statute of limitations provided for in Section 532 shall not apply.

SEC. 5. Section 565 of the Revenue and Taxation Code is repealed.

SEC. 6. Section 566 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 567 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 568 of the Revenue and Taxation Code is amended to read:

568. (a) All property which has been declared tax defaulted, whether or not subject to a power of sale by the tax collector for defaulted taxes, shall be assessed. The assessment shall be entered, in the name of the assessee on the secured roll.

(b) All property which was tax-deeded to the state prior to the enactment of Chapter 988 of the Statutes of 1984 and was unassessed because of the tax deed to the state shall be assessed as if the tax deed was never issued.

SEC. 9. Section 613 of the Revenue and Taxation Code is amended to read:

613. A mistake in the name of the owner or supposed owner of real estate does not render invalid an assessment or any deed to a purchaser at a tax sale.

A mistake in the name of an owner or supposed owner of property on the unsecured roll which does not prevent the person from reasonably ascertaining that he or she is the assessee does not render invalid an assessment or any tax sale.

SEC. 10. Section 614 of the Revenue and Taxation Code is amended to read·

614. After each assessment of tax-defaulted property the assessor shall enter on the roll the fact that it is tax defaulted and the date of the declaration of default.

SEC. 11. Section 2188.7 of the Revenue and Taxation Code is amended to read:

2188.7. (a) Whenever the assessor receives a written request for separate assessment of a community apartment project, a stock cooperative, or a limited equity housing cooperative as defined in Section 11003.2, 11003.4, or 11004 of the Business and Professions Code, or any other similarly organized housing cooperative, the assessor shall, on the first lien date which occurs more than 60 days following the request, and on each lien date thereafter, separately assess the individual interests described in subdivision (b) held by the owners of the project or shareholders of the corporation if the conditions specified in subdivision (c) have been met. Whenever a community apartment project or cooperative housing corporation is separately assessed, it shall continue to be separately assessed in subsequent fiscal years and once a request for separate assessment is made, it is binding on all future owners and occupants of the project or corporation.

(b) For community apartment projects, and similarly organized projects, the interest that is to be separately assessed pursuant to subdivision (a) is the value of the right of exclusive occupancy in a portion of the real property coupled with an undivided interest in the land. For cooperative housing corporations, limited equity housing cooperatives and similarly organized cooperatives, the interest that is to be separately assessed is the value of the right of exclusive occupancy which is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy, together with an interest in appurtenant common areas.

(c) Except as provided in subdivision (a), a separate assessment of any interest described in subdivision (b) may not be made by the assessor unless:

(1) The person making the request certifies that the owners or shareholders have been notified and the request for separate assessment has been approved in the manner provided in the organizational documents of the organization involved for approval of matters affecting the affairs of the organization generally; and

(2) A diagrammatic floor plan of the improvements and a survey plot map of the land showing the location of the improvements on the land, prepared in the form required by Chapter 2 (commencing with Section 66425) of Division 2 of Title 7 of the Government Code, has been recorded with the county recorder and filed with the assessor.

(d) Notwithstanding the provisions of subdivision (c), this section shall not be construed to require applicants for separate assessments to meet the requirements of the Subdivision Map Act, nor shall the approval of any governmental agency be required for separate assessment except for the assessor's approval prior to recordation of the plot map and diagrammatic plan required by subdivision (c).

(e) Notwithstanding the provisions of Section 2605 and regardless of whether the board of supervisors has adopted a resolution in accordance with Section 2700, the tax on interests in a cooperative

housing corporation or a limited-equity housing corporation separately assessed pursuant to subdivision (a) shall be entered on the secured roll and may be paid in two installments as provided in Chapter 2.1 (commencing with Section 2700) of Part 5. However, if:

(1) The tax on the separately assessed interest is unpaid when any installment of taxes on the secured roll becomes delinquent, the tax collector may use the procedures applicable to the collection of delinquent taxes on the unsecured roll; and

(2) The tax on the separately assessed interest remains unpaid at the time set for the declaration of default for delinquent taxes, the tax on the separately assessed interest, together with any penalties and costs which may have accrued thereon while on the secured roll, shall be transferred to the unsecured roll.

(f) The tax on an individual interest in a community apartment project, separately assessed pursuant to subdivision (a), shall be a lien solely on that interest and shall be entered on and be subject to all provisions of law applicable to taxes on the secured roll.

(g) The assessor shall provide to the principal office of each community apartment project and cooperative housing corporation within the taxing jurisdiction, at the time and in the manner as he or she deems appropriate, adequate notice of the provisions of this section and other pertinent information relative to the implementation thereof.

(h) The assessor may charge a fee for the initial cost of separately assessing a project or corporation which may be collected on the tax bill.

SEC. 12. Section 2189.5 of the Revenue and Taxation Code is amended to read:

2189.5. Every tax on personal property and improvements, located upon or appurtenant to a leasehold estate for the production of gas, petroleum or other hydrocarbon substances from beneath the surface of the earth, and belonging to the owner of the leasehold estate, may be secured by the leasehold estate, when, in the opinion of the assessor, the leasehold estate is of sufficient value to constitute security for the payment of all taxes upon that personal property or improvements and upon that leasehold estate. In the event of delinquency in the payment of that tax, the personal property, improvements, and leasehold estate shall be subject to seizure and sale in the same manner as provided for the seizure and sale of unsecured personal property, in Sections 2951 to 2962, inclusive, at any time within three years after the delinquency. Suit may be brought against an assessee of those taxes in the event of delinquency in the payment thereof.

If the tax thereon remains unpaid at the time set for the declaration of default for delinquent taxes, the tax together with any penalty and costs as may have accrued thereon while on the secured roll shall be transferred to the current unsecured roll.

Those taxes that are delinquent at the time the amendment to this section, enacted at the 1973–74 Regular Session, goes into effect may

also be transferred to the current unsecured roll.

SEC. 13. Section 2189.6 of the Revenue and Taxation Code is amended to read:

2189.6. Improvements which constitute component parts of a water distribution system located in whole or in part on property assessed to a person other than the assessee of the land on which they are located shall be assessed as improvements on the secured roll. However, those assessments shall not be a lien on the land on which those improvements are located and that fact shall be noted on the secured roll.

If the tax thereon is unpaid when any installment of secured taxes becomes delinquent, the tax collector may use the same collection procedures available for the collection of taxes on the unsecured roll.

If the tax thereon remains unpaid at the time set for the declaration of default for delinquent taxes, the tax together with any penalty and costs which may have accrued thereon while on the secured roll shall be transferred to the current unsecured roll.

SEC. 14. Section 2190 of the Revenue and Taxation Code is amended to read:

2190. Notwithstanding any provision of law to the contrary, the assessment of any possessory interest in tax-exempt real estate to which the exemption authorized by Section 218 has been applied shall be entered on the secured roll. However, the assessment shall not be a lien on the tax-exempt real estate and that fact shall be noted on the secured roll.

If the tax thereon is unpaid when any installment of taxes on the secured roll becomes delinquent, the tax collector may use the procedures which are applicable to the collection of taxes on the unsecured roll.

If the tax thereon remains unpaid at the time set for the declaration of default for delinquent taxes, the tax applicable to the possessory interest together with any penalties and costs which may have accrued thereon while on the secured roll shall be transferred to the unsecured roll.

SEC. 15. Section 2191.6 of the Revenue and Taxation Code is amended to read:

2191.6. Except as otherwise provided in Section 2191.4, the lien resulting from the recording of the certificate pursuant to Section 2191.3 shall be removed and discharged either:

(a) Upon payment of the tax, any applicable penalty and interest, and a recording fee in the amount required by Section 27361.3 of the Government Code for each release of lien issued for each county in which the certificate was recorded, and upon the recording of a certificate of release or discharge of the lien in the office of the recorder of each county in which the certificate was filed. The recording fee, together with a certificate of release or discharge, shall be transmitted to the county recorder who shall record the certificate; or

(b) When the tax is legally canceled and a certificate of release or

discharge is recorded in the office of the county recorder. A recording under this subdivision shall be made without fee.

SEC. 16. Section 2610.5 of the Revenue and Taxation Code is amended to read:

2610.5. On or before November 1 each year, the tax collector of every county shall mail a county tax bill or copy thereof for any property on the secured roll. This requirement need not be met where the computation of taxes results in a zero amount. The failure to receive a tax bill does not relieve the fee owner from the liability to pay taxes owed, nor does it relieve the imposition of penalties imposed by this code. However, the penalty imposed for delinquent taxes as provided in Section 2617, 2618, 2621, 2704, 2705, 2759, 2760, 2761, 2762, or 2922 shall be waived by the auditor or tax collector if the assessee or fee owner demonstrates that the delinquency is due to the failure of the tax collector to mail the tax bill to the address as provided on the tax assessor's roll.

With respect to a late, amended, or corrected tax bill, the penalty imposed for delinquent taxes shall be waived by the auditor or tax collector for the period of 30 days following the date the late, amended, or corrected bill is mailed.

SEC. 17. Section 2768 of the Revenue and Taxation Code is amended to read:

2768. Notwithstanding the provisions of Sections 2756, 2759 and 2763, the board of supervisors of any county which has adopted a resolution pursuant to this chapter may by resolution provide that taxes on the secured roll are due and payable October 1st, and the first installment shall be delinquent on October 25th at 5 p.m. Thereafter, a delinquent penalty of 10 percent attaches to the installment. If October 25th falls on a Saturday, Sunday, or legal holiday, the time of delinquency is at 5 p.m. on the next business day.

A resolution adopted pursuant to this section shall provide that the auditor shall have to and including October 1st in which to deliver the secured roll to the tax collector as required by Section 2754.

SEC. 18. Section 2853 of the Revenue and Taxation Code is amended to read:

2853. When this alternative method of collection of taxes on the secured roll is adopted all entries formerly required by law to be made on the delinquent roll shall thereafter be made on the secured roll except that after the date of the declaration of default for delinquent taxes the entries shall be made on the abstract list.

SEC. 19. Section 3101 of the Revenue and Taxation Code is amended to read:

3101. If any tax, interest, or penalty imposed under this part is not paid by the last day of the month succeeding the delinquency date, the official collecting taxes on the unsecured roll may file, no sooner than 10 days after the mailing of the notice required in subdivision (b), in the office of the county clerk, without fee, a certificate specifying as follows:

(a) The fact that a notice of intent to file the certificate had been

sent, by registered mail, to the assessee, at his or her last known address, not less than 10 days prior to the date of the certificate.

(b) The fact that the notice required in subdivision (a) set forth the following information:

(1) The name of the assessee.

(2) The description of the property assessed.

(3) The assessed value of the property.

(4) The fact that judgment will be sought in the amount of the tax, penalty, or interest that will remain unpaid at the time of the filing of the certificate.

(5) The fact that, upon the issuance and recordation of that judgment, additional penalties will continue to accrue at the rate prescribed by law, and that any bond premium posted or other costs to enforce the judgment shall be an added charge.

(6) The fact that a recording fee in the amount set forth in Section 27361.3 of the Government Code will be required to be paid for the purpose of the recordation of any release of the judgment lien.

(c) The name of the assessee.

(d) The amount for which judgment is to be entered.

(e) The fact that the county has complied with all provisions of this part in the computation and the levy of the tax, penalty, or interest.

(f) The fact that a request is therein made for the issuance and entry of judgment against the assessee.

SEC. 20. Section 3107 of the Revenue and Taxation Code is amended to read:

3107. (a) The judgment is satisfied and the lien removed when, but not before, the certificate of release or discharge from the judgment lien is recorded in the office of the county recorder. In addition to the judgment amount, and any additional penalty authorized by this part, the tax collector shall collect the recording fee in the amount required by Section 27361.3 of the Government Code and shall transmit it to the county recorder together with the documents for release or discharge.

(b) The judgment is also satisfied and the lien removed when, but not before the tax is legally canceled and a release or discharge from the judgment lien is recorded in the office of the county recorder. A recording under this subdivision shall be made without fee.

SEC. 21. Section 3381 of the Revenue and Taxation Code is amended to read:

3381. In each county where the tax collector or, if the county is a chartered county, the board of supervisors determines that the public interest, convenience and necessity require the local publication of the delinquent list required by Section 3371, or the published notice of power and intent to sell required by Section 3361, in order to afford adequate notice, all items required to be published shall be published as provided in this article.

After the determination, the tax collector or, if the county is a chartered county, the board of supervisors shall divide and distribute

the items to be published and cause the same to be published either within (a) the municipal corporations, (b) the elementary, high school, or junior college districts, (c) the supervisorial districts, (d) judicial districts, (e) tax districts, areas included in map books, or tax code areas, or (f) by any annexation or annexations of same, or any combination of same, or any combination of those districts, annexations, areas included in map books, and code areas, within the county as they shall determine most likely to afford adequate notice to owners of the property.

Except as provided in this article, the publication shall be in the same manner as provided in Article 1.7 (commencing with Section 3371).

The publication provided for in this article shall be made once a week for two successive weeks in a newspaper or newspapers of general circulation. The publication shall be made in a newspaper published not less frequently than once a week.

SEC. 22. Section 3382 of the Revenue and Taxation Code is amended to read:

3382. Annually, the board of supervisors shall let the contracts for publication of the published delinquent list, or the published notice of power and intent to sell, and shall determine the rate to be paid for those publications or any portions thereof.

The publication rate shall be based on a common denominator of measurement for all newspapers and may be graduated according to circulation.

SEC. 23. Section 3517 of the Revenue and Taxation Code is amended and renumbered to read:

3713. It is hereby declared to be the policy of the state and the intent of the provisions of this code, that the final tax deed or deeds of all taxing agencies, including counties, cities and counties, cities, irrigation districts, reclamation districts, and other taxing agencies that annually levy, assess, and collect, or cause to be collected, taxes or assessments upon real property within the state, should be, and are hereby declared to be, upon a parity with each other, and that regardless of when the levy of those taxes or assessments is or has been made, and regardless of when the final tax deed or assessment deed is or has been taken by the taxing agency, that the rights of all taxing agencies and all those deeds shall be equal and upon a parity with each other.

SEC. 24. Chapter 5.7 (commencing with Section 3618) of Part 6 of Division 1 of the Revenue and Taxation Code is repealed.

SEC. 25. Section 3691.1 of the Revenue and Taxation Code is amended to read:

3691.1. The tax collector shall notify the Controller whenever a parcel becomes subject to the power of sale set forth in Section 3691 on a form prescribed and provided by the Controller. The county clerk shall take acknowledgment of the notice to the Controller without charge.

SEC. 26. Section 3692 of the Revenue and Taxation Code is

amended to read:

3692. The tax collector shall attempt to sell tax-defaulted property as provided in this chapter within two years of the time that the property becomes subject to sale for nonpayment of taxes unless by other provisions of law the property is not subject to sale. If there are no acceptable bids at the attempted sale, the tax collector shall attempt to sell the property at intervals of no more than four years until the property is sold.

(a) When oil, gas, or mineral rights are subject to sale for nonpayment of taxes, the tax collector may offer the interest at minimum bid to the holders of outstanding interests where the interest subject to sale is a partial interest or, where the interest subject to sale is a complete and undivided interest, to the owner or owners of the property to which the oil, gas, or mineral rights are appurtenant.

(b) When parcels which are rendered unusable by their size, location or other conditions are subject to sale for nonpayment of taxes, the tax collector may offer the parcel at a minimum bid to owners of contiguous parcels.

Sealed bid sale procedures shall be used when offers are made pursuant to subdivision (a) or (b), and the property shall be sold to the highest eligible bidder. The offers shall remain in effect for 30 days or until notice is given pursuant to Section 3702, whichever is later.

SEC. 27. Section 3695.4 of the Revenue and Taxation Code is amended to read:

3695.4. In addition to the provisions in Section 3695 relative to objections to sales, the state or city or any taxing agency or revenue district may file with the county tax collector and county board of supervisors written objection to the sale of that part of any property which is or may be needed for public use. The written objection shall specify the description of the property needed, whether the fee or an easement is required, and the public purpose to which the property is intended to be devoted.

The objection shall be accompanied by an application to purchase that part of the property under Chapter 8 (commencing with Section 3771), which shall be filed with the board of supervisors and the tax collector before the date of the first publication of the notice of intended sale pursuant to Sections 3702 and 3703. The tax collector may proceed with the sale or may cancel the sale or may proceed to sell the portion of the parcel not included in the application of the state, city, or other taxing agency or revenue district.

SEC. 28. Section 3698.5 of the Revenue and Taxation Code is amended to read:

3698.5. (a) The minimum price at which property may be offered for sale pursuant to this chapter shall be an amount not less than 25 percent of the fair market value.

(b) For the purposes of this section, fair market value means the amount as defined in Section 110 as determined pursuant to an

appraisal of the property by the county assessor within one year immediately preceding the date of the public auction. The fair market value of property as determined by the assessor pursuant to appraisal shall be conclusively presumed in favor of any purchaser or encumbrancer for value of the property.

(c) This section shall not apply to property or interests which qualify for sale in accordance with the provisions of subdivisions (a) and (b) of Section 3692.

SEC. 29. Section 3710 of the Revenue and Taxation Code is amended to read:

3710. In addition to the usual provisions of a deed conveying real property, the deed shall specify all of the following:

(a) That the legally levied taxes on the subject property were duly declared to be in default and were a lien on the property.

(b) That the tax collector, pursuant to a statutory power of sale, has sold the property.

(c) If a taxing agency objected to the sale, the fact of the objection and the name of the objecting taxing agency.

(d) The name of the purchaser, the date of sale, and the amount for which the property was sold.

(e) That the property is therefore conveyed to the purchaser according to law.

SEC. 30. Section 3712 of the Revenue and Taxation Code is amended to read:

3712. The deed conveys title to the purchaser free of all encumbrances of any kind existing before the sale, except:

(a) Any lien for installments of special assessments, which installments will become payable upon the secured roll after the time of the sale.

(b) The lien for taxes or assessments or other rights of any taxing agency which does not consent to the sale under this chapter.

(c) Liens for special assessments levied upon the property conveyed which were, at the time of the sale under this chapter, not included in the amount necessary to redeem the tax-defaulted property, and, where a taxing agency which collects its own taxes has consented to the sale under this chapter, not included in the amount required to redeem from sale to the taxing agency.

(d) Easements constituting servitudes upon or burdens to the property; water rights, the record title to which is held separately from the title to the property; and restrictions of record.

(e) Unaccepted, recorded, irrevocable offers of dedication of the property to the public or a public entity for a public purpose, and recorded options of any taxing agency to purchase the property or any interest therein for a public purpose.

(f) Unpaid assessments under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) which are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.

SEC. 31. Section 3721 of the Revenue and Taxation Code is amended to read:

3721. On receipt of the notice for claims, the governing board of each taxing agency, not also a revenue district, having taxes or assessments levied on the property for the fiscal year preceding that in which the property was sold, shall forward a share claim to the county auditor, stating, in detail, the amounts due on the property still unpaid to the taxing agency, claiming their share of the proceeds from the sale as is determined by the distribution made under this division. The claim shall set out all the municipal and special district tax rates applicable to the deeded property for the fiscal year preceding that in which the property was sold.

SEC. 32. Section 3727 of the Revenue and Taxation Code is amended to read:

3727. Whenever property has been purchased at tax sale, the purchaser or any other person claiming through the purchaser may bring suit to quiet title to all or any portion of the property and prosecute it to final judgment.

SEC. 33. Section 3728 of the Revenue and Taxation Code is amended to read:

3728. Before holding any tax deed heretofore or hereafter given under this chapter or Chapter 8 (commencing with Section 3771), former Chapter 3 (commencing with Section 3475), former Chapter 4.3 (commencing with Section 3534), or former Sections 3897 and 3897d of the Political Code to be void, the court shall determine the correct amount of taxes, penalties and costs that should be paid upon redemption to discharge the tax and assessment liens of all taxing agencies and revenue districts had the purported tax sale not been held and the court shall order the former owner or other party in interest to pay that amount within six months as follows:

(a) To the purchaser, or his or her grantee or successor in interest, the amount of taxes, penalties and costs expended by him or her as determined by the court in pursuit of title to the property, and when the purchaser at that sale or the grantee in any deed for taxes or his or her grantee or successor in interest is in possession of that property in good faith and claiming the property under a tax deed, which is regular upon its face, and has made permanent improvements thereon, the court shall not make that decree until there has also been repaid to the purchaser or his or her grantee or successor in interest a sum, as determined by the court, equal to the amount by which the value of the property has been enhanced by those permanent improvements; and

(b) To the county tax collector, the balance, if any, of the correct amount as determined by the court that should be paid upon redemption, which shall be distributed by the county to the taxing agencies and revenue districts as redemption money.

If the amounts are not paid in accordance with the order the court shall not hold the tax deed void.

SEC. 34. Section 3729 of the Revenue and Taxation Code is

amended to read:

3729. When a court holds a tax deed given under this chapter or Chapter 8 (commencing with Section 3771), former Chapter 3 (commencing with Section 3475), former Chapter 4.3 (commencing with Section 3534), or former Sections 3897 and 3897d of the Political Code void, the purchaser at tax sale is entitled to a refund from the county of the amount paid as the purchase price in excess of the amount for which he or she has been reimbursed for taxes, penalties, and costs. The refund shall be made in the same manner as a refund of an overpayment of tax, except that the claim shall be presented within one year after the judgment becomes final.

SEC. 34.1. Section 3730 of the Revenue and Taxation Code is repealed.

SEC. 34.2. Section 3730.1 of the Revenue and Taxation Code is repealed.

SEC. 34.3. Section 3731 of the Revenue and Taxation Code is repealed.

SEC. 34.4. Section 3731 is added to the Revenue and Taxation Code, to read:

3731. (a) When a tax deed to a purchaser of property sold by the tax collector pursuant to this chapter is recorded and it is determined that the property should not have been sold, the sale may be rescinded by the board of supervisors with the written consent of the county legal adviser and the purchaser of the property under any of the following circumstances:

(1) The property has not been transferred or conveyed by the purchaser at the tax sale to a bona fide purchaser for value.

(2) The property has not become subject to a bona fide encumbrance for value subsequent to the recordation of the tax deed.

(3) A guarantee or certificate of title respecting the property has not been issued subsequent to the recordation of the tax deed.

(b) When the sale of tax-defaulted property is rescinded pursuant to subdivision (a), the purchaser is entitled to a refund of the amount paid as the purchase price after the purchaser executes a recision of the tax deed. The recision shall also be executed by the county tax collector. The signatures of the purchaser and the county tax collector shall be acknowledged by the county clerk, without charge, and the county tax collector shall then record the recision with the county recorder, without charge. After recordation, a copy of the recision shall be forwarded to the Controller. When the recision is recorded, the tax deed becomes null and void as though never issued and all provisions of law relating to tax-defaulted property shall apply to the property.

SEC. 34.5. Section 3731.1 of the Revenue and Taxation Code is amended to read:

3731.1. The board of supervisors of any county may, by resolution, authorize any county officer to perform on its behalf any act required or authorized to be performed by the board of supervisors under

Section 3731.

The resolution shall enumerate the section, or those portions of the section, to which the authorization is to apply, and shall specify administrative rules and procedures concerning any act performed under the authorization.

The resolution shall require that the county auditor record each act performed under the authorization. The resolution may provide for review by the board of supervisors of any act performed under the authorization, or for periodic reports to the board of supervisors of any or all acts performed under the authorization, or both.

SEC. 35. Section 3773 of the Revenue and Taxation Code is amended to read:

3773. Whenever property becomes subject to a power of sale pursuant to Section 3691 for taxes, including taxes levied by a city or any taxing agency or for a revenue district the taxes of which are collected by county officers, the city or taxing agency or revenue district has all the rights under this chapter of a taxing agency to which property has been deeded for taxes.

SEC. 36. Section 3793.5 of the Revenue and Taxation Code is amended to read:

3793.5. (a) The terms of any agreement under this chapter may provide that no payment is to be made by the purchasing taxing agency at the time the property is acquired but that the proceeds of a resale of the property by the purchasing taxing agency shall, after the deduction by the taxing agency of its expenses of purchase and sale, be distributed by the county under Chapter 1.3 (commencing with Section 4671) of Part 8.

(b) If the terms provided for in subdivision (a) are included in an agreement under this chapter, the agreement shall require the purchasing taxing agency to sell the property to a private purchaser within two years after the date of recordation of the deed to the taxing agency, which period may be extended by resolution of the board of supervisors for a reasonable length of time. Upon the granting of an extension, notice thereof shall be given by the clerk of the board of supervisors to the tax collector and the Controller.

SEC. 37. Section 3799 of the Revenue and Taxation Code is amended to read:

3799. The tax collector shall mail a copy of the notice not less than 45 nor more than 60 days prior to the effective date of the agreement, by registered mail to the last assessee of each portion of the property and to parties of interest, as defined in Section 4675, at their last known address.

To ascertain the address of the last assessee of the property an examination shall be made of the assessment of this property on the rolls beginning with the year of delinquency to and including that of the last equalized roll. The tax collector shall make reasonable efforts to ascertain the identity and address of parties of interest.

It is not necessary to mail a copy of the notice to any party who files with the tax collector a written acknowledgment of receipt of

a copy of the notice or a waiver of the notice. The validity of any sale under this chapter shall not be affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive mailed notice.

SEC. 38. Section 3802 of the Revenue and Taxation Code is amended to read:

3802. The agreement shall become effective no sooner than 5:01 p.m. on the 21st day after the first publication of the notice of agreement.

SEC. 39. Section 3805 of the Revenue and Taxation Code is amended to read:

3805. In addition to the usual provisions of a deed conveying real property, the deed shall specify:

(a) That the real property was subject to a power of sale pursuant to Section 3691 for nonpayment of taxes which had been legally levied and were a lien on the property.

(b) The name of the purchaser.

(c) Any condition deemed necessary to effect compliance with the agreement, including, but not limited to, a condition that the real property be used by the taxing agency or nonprofit organization for the public use specified in the agreement.

SEC. 39.5. Section 3807.5 of the Revenue and Taxation Code is amended to read:

3807.5. If a taxing agency or nonprofit organization purchasing the property, pursuant to Section 3791.4 or 3793.5, does not meet the conditions imposed by Section 3791.4 or 3793.5 within two years after the date of recordation of the tax deed to the taxing agency or nonprofit organization, and not within any extension of that period approved by the board of supervisors, the taxing agency or nonprofit organization shall execute a recision of the tax deed in the same manner and with the same effect prescribed in subdivision (b) of Section 3731.

SEC. 40. Section 3841 of the Revenue and Taxation Code is amended to read:

3841. If any property, whether subject to a power of sale pursuant to Section 3691 or not, is deeded for taxes to two or more taxing agencies, any one or more of them may sell and convey its or their interest in all or any portion of the property to any one or more of them for any agreed price and terms. Any one of them may, by itself or with another taxing agency, make the purchase.

SEC. 41. Section 3950 of the Revenue and Taxation Code is amended to read:

3950. Whenever tax-defaulted property has been purchased at tax sale, including purchases made under Chapter 8 (commencing with Section 3771), and all subsequent taxes levied and payable have been paid, the purchaser, or any person claiming through the purchaser, may bring an action to determine adverse claims to or clouds upon that property. The complaint shall be verified and shall

aver the matters above enumerated.

SEC. 42. Section 3951 of the Revenue and Taxation Code is amended to read:

3951. The complaint shall include as defendants to the action, all persons who are known to plaintiff or who appear of record to have some interest in or claim or cloud on the land described in plaintiff's complaint, arising prior to the date of the tax deed, other than persons owning a special assessment unless plaintiff seeks to determine the interest or claim of those persons. The state may be made a party defendant where the property was sold prior to September 10, 1984.

SEC. 43. Section 3952 of the Revenue and Taxation Code is amended to read:

3952. The complaint may further include as defendants persons unknown to plaintiff who claim any right, interest, lien, or claim on the land or cloud upon the title of plaintiff thereto arising prior to the date of the tax deed. In any case in which any person who appears to have had an interest in the land or any claim or cloud upon the title of the plaintiff thereto is known to be dead, the heirs and devisees of that person may be sued as "the heirs and devisees" of the person, naming him or her, or if the person is believed to be dead and that belief is alleged in the complaint on information and belief then the heirs and devisees of that person may also be sued as "the heirs and devisees" of that person, naming him or her, provided that the person is also named as a defendant.

SEC. 44. Section 4102 of the Revenue and Taxation Code is amended to read:

4102. The amount necessary to redeem shall be paid in lawful money of the United States and is the sum of the following:

(a) The amount of defaulted taxes.

(b) Delinquent penalties and costs.

(c) Redemption penalties.

(d) A redemption fee of one dollar and fifty cents ($1.50) on each separately valued parcel tax defaulted after June 13, 1947, and prior to June 13, 1969. A redemption fee of two dollars ($2) on each separately valued parcel tax defaulted after June 12, 1969, and prior to January 1, 1979. A redemption fee of five dollars ($5) on each separately valued parcel tax defaulted after January 1, 1979, and prior to January 1, 1984, and a redemption fee of fifteen dollars ($15) on and after that date. On property tax defaulted prior to June 13, 1947, there shall be no redemption fee collected.

SEC. 45. Section 4109 of the Revenue and Taxation Code is amended to read:

4109. The tax collector shall note the fact and date of redemption on the margin of each delinquent roll opposite the description of the property.

In the event that part of the property is redeemed, the tax collector shall also note:

(a) A description of the parcel redeemed.

(b) The value of the parcel redeemed.

(c) The value of the remainder of the property.

SEC. 46. Section 4110 of the Revenue and Taxation Code is amended to read:

4110. The tax collector shall prepare and set up a convenient and appropriate index record, or other workable system of tax-defaulted property. The record shall be kept regularly posted to reflect the immediate status of all items remaining unpaid on the delinquent rolls or abstract lists.

SEC. 47. Section 4112 of the Revenue and Taxation Code is amended to read:

4112. (a) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the tax collector shall collect both of the following, in addition to the amount required to redeem:

(1) A fee of thirty-five dollars ($35) which shall be distributed to the county general fund to reimburse the county for its cost of obtaining the names and last known mailing addresses of, and for mailing notices required by Section 3701 to, parties of interest as defined by Section 4675.

(2) A fee in the amount required by Section 27361.3 of the Government Code which shall be distributed to the county recorder for the cost of recordation of a rescission of the notice, as required by subdivision (b).

(b) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the notice becomes null and void and the tax collector shall execute and record with the county recorder a rescission of the notice in the form prescribed by the Controller. The rescission shall be acknowledged by the county clerk, without charge, and after recordation shall be forwarded to the Controller.

SEC. 48. Section 4113 of the Revenue and Taxation Code is amended to read:

4113. Whenever tax-defaulted property is redeemed, the redemptioner or any other person claiming through the redemptioner may bring suit to quiet title to all or any portion of the property and prosecute it to final judgment.

SEC. 49. Section 4131 of the Revenue and Taxation Code is amended to read:

4131. It is hereby declared to be the policy of the state and the intent of this chapter to provide for:

(a) The satisfaction and removal of any lien secured to any parcel of tax-defaulted property, and if the right of redemption has not been terminated, to any parcel of tax-defaulted property subject to a power of sale pursuant to Section 3691.

(b) The redemption of any parcel of tax-defaulted property and, if the right of redemption has not been terminated, any parcel of tax-defaulted property subject to a power of sale pursuant to Section 3691, separately from the whole parcel which originally became tax

defaulted, if the parcel sought to be redeemed (1) is described in any duly executed and recorded deed, purchase contract, deed of trust, mortgage, or final decree of court; (2) had a separate valuation on the roll of the year for which it became tax defaulted; or (3) has a separate valuation on the current roll.

SEC. 50. Section 4154 of the Revenue and Taxation Code is amended to read:

4154. If the assessor has set forth the value of personal property, or leasehold improvements, or possessory interests opposite his or her determination of the value of the parcel, the amount of defaulted taxes on the parcel is the sum of the following:

(a) The sum of the amounts computed by multiplying the assessed value of the parcel by the applicable tax rate for each of the years for which it was delinquent.

(b) The sum of the amounts set forth in the certification of the taxing agency or revenue district as being the portion of the lien for each of the years for which it was delinquent which is to continue to be levied or placed on the parcel.

SEC. 51. Section 4156 of the Revenue and Taxation Code is amended to read:

4156. The amount necessary to redeem the parcel is the sum of the following:

(a) The amount of defaulted taxes on the parcel.

(b) Delinquent penalties in an amount which bear the same proportion to the delinquent penalties in the whole assessment as the amount of taxes and liens on the parcel bears to the total amount of taxes and liens on the whole assessment, determined for each of the years for which it was delinquent.

(c) Costs computed in the same manner provided for the computation of delinquent penalties.

(d) Redemption penalties computed on the amount of taxes and liens levied against the parcel for each of the years for which it was delinquent.

(e) The redemption fee provided for in this part.

SEC. 52. Section 4157 of the Revenue and Taxation Code is amended to read:

4157. The amount necessary to redeem the remaining parcel is the sum of the following:

(a) The amount of defaulted taxes on the whole assessment less the amount of defaulted taxes on the parcel separately valued.

(b) Delinquent penalties on the whole assessment less the amount of delinquent penalties on the parcel separately valued.

(c) Costs on the whole assessment less the amount of costs on the parcel separately valued.

(d) Redemption penalties computed on the amount of taxes and liens remaining on the parcel for each of the years for which it was delinquent.

(e) The redemption fee provided for in this part.

SEC. 53. Section 4216 of the Revenue and Taxation Code is

amended to read:

4216. As used in this article:

(a) "Redemption amount" means the total amount which would be necessary to redeem tax-defaulted property at the time an election is made to pay delinquent taxes in installments under this article.

(b) "Balance of the redemption amount" is the amount equal to the difference between the redemption amount and the total of the portions previously paid which portions were paid as a part of the redemption amount.

SEC. 54. Section 4217 of the Revenue and Taxation Code is amended to read:

4217. Any person may elect to pay delinquent taxes in installments under this article at any time prior to 5 p.m. on June 30th of the fifth year after the property became tax defaulted, except that if payment of delinquent taxes in installments is started under this article and the amount required to be paid in any fiscal year is not paid as required by this article, payments on property which, but for the installment redemption plan, would have been subject to a power of sale pursuant to Section 3691 during the calendar year in which default on the redemption plan occurs may not again be started under this article. All other payments may be started on or after July 1 of the fiscal year commencing after the fiscal year in which default occurred.

SEC. 55. Section 4218 of the Revenue and Taxation Code is amended to read:

4218. During the time payments are made under this article:

(a) The property subject to the installment plan shall not become subject to a power of sale pursuant to Section 3691.

(b) The right of redemption shall not be terminated.

SEC. 56. Section 4221 of the Revenue and Taxation Code is amended to read:

4221. In each succeeding fiscal year the redemptioner shall pay, before the delinquency date of the last installment of current taxes, the sum of the following:

(a) That amount which is computed to be not less than the difference between the amounts previously paid under the provisions of this article, excepting amounts paid as interest, and

(1) 40 percent of the redemption amount when the payment is made during or prior to the first fiscal year following the year in which election was made to pay delinquent taxes in installments.

(2) 60 percent of the redemption amount when the payment is made during or prior to the second fiscal year following the year in which election was made to pay delinquent taxes in installments.

(3) 80 percent of the redemption amount when the payment is made during or prior to the third fiscal year following the year in which election was made to pay delinquent taxes in installments.

(4) 100 percent of the redemption amount when the payment is made during or prior to the fourth fiscal year following the year in

which election was made to pay delinquent taxes in installments.

(b) On parcels tax defaulted prior to June 15, 1974, interest shall be computed at the rate of ½ percent per month accruing on the first day of each month following the preceding payment, on the balance of the redemption amount.

(c) On parcels tax defaulted on and after June 15, 1974, interest shall be computed at the rate of 1 percent per month accruing on the first day of each month following the preceding payment, on the balance of the redemption amount.

(d) On parcels tax defaulted on and after June 15, 1982, interest shall be computed at the rate of 1½ percent per month accruing on the first day of each month following the preceding payment, on the balance of the redemption amount.

Payments made under this section shall be computed and paid in the same manner as a redemption, and the receipts for those payments shall show that the payments are for the use of the real estate under this plan for payment of delinquent taxes in installments.

SEC. 57. Section 4222 of the Revenue and Taxation Code is amended to read:

4222. If all payments are not made on or before the dates prescribed, the property may become subject to a power of sale pursuant to Section 3691 or the right of redemption may be terminated in the same manner as if no election to pay delinquent taxes in installments had been made. In the event that the default occurs at the time the second or subsequent installment is due and the assessee or agent of the assessee can, by substantial evidence, convince the tax collector that the payment was not made through any fault of the assessee the tax collector may reinstate the account upon receipt of a payment in an amount reflecting the installment due plus interest under Section 4221 to the date of reinstatement, provided the payment is made prior to the time the property becomes subject to a power of sale or prior to June 30 of the current fiscal year, whichever occurs earlier.

SEC. 58. Section 4223 of the Revenue and Taxation Code is amended to read:

4223. Payments under this article are not a redemption or partial redemption.

SEC. 59. Section 4373 of the Revenue and Taxation Code is amended to read:

4373. Each year after property becomes tax defaulted by operation of law, the tax collector shall insert in the abstract list, or prepare an abstract list of, unpaid items from the roll in which the tax-defaulted properties are recorded.

SEC. 60. Section 4378 of the Revenue and Taxation Code is amended to read:

4378. Upon the destruction of the delinquent tax roll and the original secured roll pursuant to Section 4377, any property or interest therein which theretofore became delinquent but does not

appear in the abstract list shall conclusively be presumed to have been redeemed and the delinquency satisfied and any notices of tax default and power of sale canceled, unless there then appears of record in the proper county a tax deed on sale thereof pursuant to this division. However, the conclusive presumption of payment and redemption prior to sale pursuant to this division shall not apply as against a tax deed issued within one year prior to the destruction of the delinquent tax roll and original secured roll, unless the tax deed was not recorded, in the proper county, within one year after the date of the deed.

SEC. 61. Section 4379 of the Revenue and Taxation Code is amended to read:

4379. No proceeding or defense based upon a right or claim under a tax deed issued pursuant to this division upon property or any interest therein not appearing upon the abstract list shall be maintained or asserted after the destruction of the delinquent tax roll and original secured roll pursuant to Section 4377 unless the tax deed was recorded in the proper county at the date of the destruction or within one year after the date of the deed, whichever is later. If the proceeding or defense is barred by this section, the only recourse of the grantee in the tax deed, or the grantee's successor in interest, shall be to obtain a refund in the manner prescribed in Section 3729 upon claim made within one year after the bar arises.

SEC. 62. Section 4656.5 of the Revenue and Taxation Code is amended to read:

4656.5. All redemption fees collected prior to January 1, 1984, shall be distributed 50 percent to the State of California for deposit in the General Fund and 50 percent to the county that is the situs of the tax-defaulted property for deposit in its general fund. Redemption fees on property tax defaulted on and after January 1, 1984, shall be distributed five dollars ($5) to the State of California for deposit in the General Fund and ten dollars ($10) to the county that is the situs of the tax-defaulted property for deposit in its general fund.

SEC. 63. Section 4671 of the Revenue and Taxation Code is amended to read:

4671. As used in this chapter, "taxes" includes all liens determined by the application of an ad valorem tax rate which were, at the time of declaration of default, included in the amount necessary to redeem the property under Chapter 1 (commencing with Section 4101) of Part 7.

SEC. 64. Section 4671.3 of the Revenue and Taxation Code is amended to read:

4671.3. As used in this chapter, "assessments" includes all liens other than taxes which were, at the time of declaration of default, included in the amount necessary to redeem the property under Chapter 1 (commencing with Section 4101) of Part 7, and included in the amount necessary to redeem the property from sale to any taxing agency entitled to share in the proceeds.

SEC. 65. Section 4672 of the Revenue and Taxation Code is amended to read:

4672. There shall be distributed to the State of California, to be placed in the General Fund, the following:

One dollar and fifty cents ($1.50) for all or any portion of each separately valued parcel of real property subject to a power of sale pursuant to Section 3691 and sold to private parties or to a taxing agency.

If property is deeded to a taxing agency under an agreement requiring that the taxing agency resell the property, it shall not be deemed "sold" until resold by the taxing agency to a private party.

The one dollar and fifty cents ($1.50) for property sold shall be paid from the total amount to be distributed. If the total amount is insufficient the one dollar and fifty cents ($1.50) shall be reduced accordingly.

SEC. 66. Section 4672.1 of the Revenue and Taxation Code is amended to read:

4672.1. There shall be distributed to the county general fund to reimburse the county for the cost of conducting the sale one hundred fifty dollars ($150) for all or any portion of each separately valued parcel of real property subject to a power of sale pursuant to Section 3691 and sold to private parties or to a taxing agency.

If property is deeded to a taxing agency under an agreement requiring that the taxing agency resell the property it shall not be deemed "sold" until resold by the taxing agency to a private party.

One hundred fifty dollars ($150) for property sold shall be paid from the total amount to be distributed, after satisfaction of the amount specified in Section 4672. If the amount is insufficient, the one hundred fifty dollars ($150) shall be reduced accordingly.

SEC. 67. Section 4672.2 of the Revenue and Taxation Code is amended to read:

4672.2. There shall be distributed to the county general fund to reimburse the county for the cost of giving notice pursuant to Section 3701 thirty-five dollars ($35) for all or any portion of each separately valued parcel of real property subject to a power of sale pursuant to Section 3691 and sold to private parties or to taxing agencies. Thirty-five dollars ($35) for property sold shall be paid from the total amount to be distributed after satisfaction of the amounts specified in Sections 4672 and 4672.1. If the amount is insufficient, the thirty-five dollars ($35) shall be reduced accordingly.

SEC. 68. Section 4673 of the Revenue and Taxation Code is amended to read:

4673. Amounts to reimburse the county for the cost of advertising sales of tax-defaulted property shall be distributed to the county general fund as provided in Section 3719.

SEC. 69. Section 4673.1 of the Revenue and Taxation Code is amended to read:

4673.1. After satisfaction of the amount specified in Sections 4672, 4672.1 and 4673, the proceeds shall be distributed as follows:

(a) An amount of the proceeds up to but no greater than the amount required, at the time of sale, to redeem the property from tax default and the sale to any taxing agency entitled to share in the proceeds shall be distributed as follows:

(1) A pro rata share shall be distributed to each assessment fund in an amount bearing the same proportion as the assessment due each fund bears to the total amount of taxes and assessments necessary to redeem the property at the time of sale.

(2) The remaining balance of the proceeds to be distributed under this section shall be distributed to each tax fund in an amount bearing the same proportion to the balance remaining as the tax rate for each fund bears to the total tax rate applicable to the property for the fiscal year preceding that in which the property was sold.

(b) After satisfaction of the amounts specified in subdivision (a), an amount of the proceeds necessary to satisfy current taxes and assessments and applicable penalties and costs thereon shall be distributed as provided in Chapter 1a (commencing with Section 4653) of this part. Current taxes and assessments referred to herein include taxes and assessments which would have been levied on the property if the property were not tax-deeded to any taxing agency and remains subject to sale by, or redemption from, the taxing agency.

SEC. 70. Section 4674 of the Revenue and Taxation Code is amended to read:

4674. Any excess in the proceeds deposited in the delinquent tax sale trust fund remaining after satisfaction of the amounts distributed under Sections 4672, 4672.1, 4673, and 4673.1 shall be retained in the fund on account of, and may be claimed by parties of interest in the property as provided in, Section 4675. At the expiration of one year following the recordation of the tax deed to the purchaser, any excess proceeds not claimed under Section 4675 shall be distributed as provided in paragraph (2) of subdivision (a) of Section 4673.1, except prior to the distribution, the tax collector may deduct those costs of maintaining the redemption and tax-defaulted property files which have not been recovered under any other provision of law.

SEC. 71. Section 4675 of the Revenue and Taxation Code is amended to read:

4675. Any party of interest in the property may file with the county a claim for the excess proceeds at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.

After the property has been sold, a party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned. Any attempted assignment that does not comply with these requirements

shall have no effect. This paragraph shall apply only with respect to assignments on or after the effective date of this paragraph. In addition, any person or entity who in any way acts on behalf of, or in place of, any party of interest with respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount of excess proceeds has been disclosed to the party of interest and that the party of interest has been advised of his or her right to file a claim for the excess proceeds on his or her own behalf.

The claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.

No sooner than one year following the recordation of the tax collector's deed to the purchaser, and if the excess proceeds have been claimed by any party of interest as provided herein, the excess proceeds shall be distributed on order of the board of supervisors to the parties of interest who have claimed the excess proceeds in the order of priority set forth in subdivisions (a) and (b). For the purposes of this article, parties of interest and their order of priority are:

(a) First, lienholders of record prior to the recordation of the tax deed to the purchaser in the order of their priority; and

(b) Then, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.

Any action or proceeding to review the decision of the board of supervisors shall be commenced within 90 days after the date of that decision of the board of supervisors.

SEC. 72. Section 4676 of the Revenue and Taxation Code is amended to read:

4676. When excess proceeds from the sale of tax-defaulted property exceeds one hundred fifty dollars ($150), the county shall provide notice of the right to claim the excess proceeds, as provided herein.

(a) No later than 90 days after the sale of the property, the county shall mail written notice of the right to claim excess proceeds to the last known mailing address of parties of interest, as defined in Section 4675. The county shall make a reasonable effort to obtain the name and last known mailing address or parties of interest.

(b) If the last known address of a party of interest cannot be obtained, the county shall publish notice of the right to claim excess proceeds in a newspaper of general circulation in the county. The notice shall be published once a week for three successive weeks and shall commence no later than 90 days after the sale of such property.

The cost of obtaining the name and last known mailing address of parties of interest and of mailing or publishing the notices required herein shall be deducted from the excess proceeds and shall be distributed to the county general fund.

SEC. 73. Section 4703 of the Revenue and Taxation Code is amended to read:

4703. In each county which elects to adopt the procedure authorized by this chapter there is hereby created a tax losses reserve fund.

(a) The tax losses reserve fund shall be used exclusively as hereinafter provided to cover losses which may occur in the amount of tax liens as a result of special sales of tax-defaulted property. Except as provided in subdivision (b), whenever in any year the amount of the tax losses reserve fund shall have reached an amount equivalent to 5 percent of the total of all taxes and assessments levied on the secured roll for that year the amounts hereinafter authorized to be credited to that fund shall, for the remainder of that year, be credited to the county general fund.

(b) If any county for which the rate of secured tax delinquency has been 3 percent or less for the preceding three consecutive fiscal years, whenever in any year the amount of the tax losses reserve fund shall have reached the amount equivalent to 3 percent of the total of all taxes and assessments levied on the secured rolls for that year the amounts hereinafter authorized to be credited to that fund shall, for the remainder of that year, be credited to the county general fund.

(c) If any county utilizing the procedure set forth in subdivision (b) of this section, incurs a rate of secured tax delinquency for one fiscal year that exceeds 3 percent of the total of all taxes and assessments levied on the secured rolls, the provisions of subdivision (a) of this section shall apply, including the 5-percent limit, until such time as the rate of secured tax delinquency has been 3 percent or less for three consecutive years at which time the provisions of subdivision (b) of this section shall again apply.

(d) The auditor and treasurer shall keep apportioned tax resources accounts in such a manner that the balance of amounts apportioned to funds on an accrual basis shall be known by both officers. In addition, the auditor shall keep secured taxes receivable accounts in such a manner as to establish accountability for the amounts receivable on the secured tax rolls. Secured tax rolls as used in this chapter include delinquent rolls prescribed by Section 2627.

SEC. 74. Section 4704 of the Revenue and Taxation Code is amended to read:

4704. In order to facilitate tax accounting in connection with the procedure authorized by this chapter each county which adopts the procedure shall enter tax-defaulted property on the rolls in the name of the assessee and extend taxes thereon in the name of the assessee. The amount so extended shall be used in the determination of the cost to redeem that property. If valuations of tax-defaulted property entered on the roll under the provisions of this section exceed 1 percent of the total, the valuations shall not be included by the county auditor in any statement of equalized assessed valuations which he or she may be required to make as the basis for the determination of a bond debt limitation.

SEC. 75. Section 4709 of the Revenue and Taxation Code is

amended to read:

4709. Upon completion of the delinquent roll as prescribed by Section 2627, the auditor shall verify the total thereof against his or her accounts. The auditor shall similarly verify against his or her accounts the total of the list of tax-defaulted property furnished him or her after the declaration date by the tax collector as prescribed by Section 3442.

The auditor shall adjust the secured taxes receivable accounts for the total amount of any adjustments on the secured tax rolls for delinquent penalties and costs which are no longer receivable as of the sale date under Section 4102.

SEC. 76. Section 4710 of the Revenue and Taxation Code is amended to read:

4710. After apportionment to the state of the amounts prescribed by Section 4656.2, amounts received for the redemption of tax-defaulted property shall be distributed as follows:

(a) Any amounts levied but not apportioned to funds at the time of levy in the manner authorized by this chapter and any redemption penalties collected on those amounts shall be distributed to funds as prescribed in Chapter 1c (commencing with Section 4656), except that assessments not apportioned previously shall be distributed to the funds for which levied.

(b) Any amounts which were apportioned to funds at the time of the levy in the manner authorized by this chapter shall be distributed to the apportioned tax resources accounts. The pro rata of redemption penalties or interest collected on any amounts levied but not apportioned to funds at the time of levy shall be distributed to the respective funds and the balance of redemption penalties or interest together with delinquency penalties shall be apportioned to the tax losses reserve fund.

(c) Amounts collected as costs shall be distributed to the county general fund.

(d) Amounts collected as redemption fees shall be distributed to the state.

The total amount collected on the secured tax roll shall be entered on the secured taxes receivable accounts.

SEC. 77. Section 4711 of the Revenue and Taxation Code is amended to read:

4711. The proceeds of the sale of tax-defaulted property deposited in the delinquent tax sale trust fund shall be distributed as provided in Chapter 1.3 (commencing with Section 4671). However, the taxes and assessments which constitute the amounts required to redeem the tax-defaulted property shall, for the purposes of this chapter, be distributed as follows:

(a) The amount available for distribution shall be prorated on the basis of those taxes and assessments between apportioned levies and unapportioned levies.

(b) The pro rata share for unapportioned levies shall be prorated between the amount of tax levies and the amount of assessment

levies. The pro rata share for unapportioned tax levies shall be distributed to funds on the basis prescribed in Chapter 1.3 (commencing with Section 4671). The pro rata share for unapportioned assessment levies shall be distributed to the assessment funds on the basis prescribed in subdivision (a) of Section 4710.

(c) The pro rata share for apportioned levies shall be distributed to the tax losses reserve fund.

The amount canceled by the sale shall be entered on the secured taxes receivable accounts. Any canceled amounts which were apportioned at the time of levy in the manner authorized by this chapter shall be entered on the apportioned tax resources accounts, and this cancellation shall be borne by the tax losses reserve fund.

SEC. 78. Section 4712 of the Revenue and Taxation Code is repealed.

SEC. 79. Section 4713 of the Revenue and Taxation Code is amended to read:

4713. In any county electing to follow the procedure authorized by this chapter the tax collector and auditor, or either of them, upon approval of the county treasurer, may determine by analysis of the abstract of delinquencies the amounts included therein by the original tax and assessment levies for each fund, and, on the basis of such determination, the treasurer and auditor may forthwith enter the total tax levy on the apportioned tax resources accounts and apportion to each fund for which taxes were levied 95 percent of the fund amounts so determined. The remaining 5 percent of the tax amounts shall be apportioned to the tax losses reserve fund. These apportionments shall constitute a full liquidation of the share of each fund in the liens for delinquent taxes appearing on the abstract list and any amounts thereafter received through redemption or sale of the property shall be apportioned in the manner prescribed by Sections 4708, 4710, and 4711 for years in which the procedure authorized by this chapter has been in effect.

SEC. 80. Section 4717 of the Revenue and Taxation Code is amended to read:

4717. If a tax payment which is insufficient to cover the amount of taxes due and payable is received by the tax collector of a county that has elected to follow the procedure authorized by this chapter, the tax collector shall place the tax payment in a trust fund and immediately notify the taxpayer of the deficiency.

In the case of a deficiency in the payment of secured taxes, the taxpayer may pay the balance due until the date on which the property becomes tax defaulted by operation of law. If payment of the balance due is not received on or before that date, the insufficient payment shall be returned to the taxpayer, and shall become tax defaulted in the usual manner as provided in this code.

In the case of a deficiency in the payment of unsecured taxes, the taxpayer may pay the balance due within six months after the date of the insufficient payment. If payment of the balance due is not

made within that time, the tax collector or other officer collecting unsecured taxes shall credit the amount of the insufficient payment on the unsecured roll.

If payment of the balance due is made within the time specified in this section, any delinquent penalty which attaches by operation of law shall be computed only upon the additional amount required to bring the payment to a nondelinquent status.

The county auditor shall make the necessary adjustments in the tax rolls and in the tax and penalty charges.

The tax collector may accept payments which are within ten dollars ($10) of the tax due as payment in full. The auditor or controller shall prescribe methods for accounting and adjusting their accounts in this matter.

The provisions of this section shall become effective in any county when authorized by resolution adopted by majority vote of the board of supervisors of the county.

SEC. 81. Section 4803 of the Revenue and Taxation Code is amended to read:

4803. When any declaration of default, redemption certificate, or notice of default and power to sell is canceled or corrected under this part, the tax collector shall immediately notify the Controller of the fact.

SEC. 82. Section 4832 of the Revenue and Taxation Code is amended to read:

4832. Clerical errors of the auditor on the roll may be corrected under this article at any time before the report is sent to the Controller pursuant to Section 3440, or the summary statement is sent to the Controller pursuant to Section 3446, showing in detail the tax-defaulted property.

SEC. 83. Section 4834.5 of the Revenue and Taxation Code is amended to read:

4834.5. Clerical errors on the delinquent roll may be corrected by the tax collector with the written consent of the district attorney, at any time before the county has disposed of the property. This section shall be construed as an additional procedure to that set forth in Sections 4946 to 4948, inclusive.

SEC. 84. Section 4837.5 of the Revenue and Taxation Code is amended to read:

4837.5. (a) Notwithstanding any other provision of law, taxes due on escape assessments for prior fiscal years, where the error causing the escape assessment was not that of the assessee, or taxes due because of the correction of any assessor's error for prior fiscal years under this article, where that error was made without fault on the part of the assessee, may be paid over a four-year period at the option of the assessee if: (1) the additional tax is over one hundred dollars ($100), and (2) a written request for installment payment is filed by the assessee with the tax collector prior to the time the second installment of taxes on the secured roll becomes delinquent, or by the last day of the month following the month in which the tax

bill is mailed, whichever is later. The tax collector shall include with the property tax bill a notice of the payment provisions of this section.

If payment by installments is requested, 20 percent of the tax shall be paid no later than the deadline for filing the written request. The current taxes and prior year taxes with penalties and costs thereon shall be paid with or prior to the initial installment payment. In each succeeding fiscal year, the assessee shall pay, before the delinquency date of the second installment of current taxes on the secured roll, all current year taxes, and a sum at least sufficient to reduce the outstanding balance of the tax by 20 percent of the original amount.

No penalties shall be charged so long as installment payments are made timely. If any installment is not paid timely, or if the property on the secured roll becomes tax defaulted, or if the property changes ownership, or if taxes for the property on the unsecured roll are not paid before becoming delinquent, the balance of the tax remaining to be paid shall immediately become due and payable, no further installment payments for that escape assessment or correction shall be authorized, and the remaining balance of the tax shall become subject to all of the provisions of this division applicable to delinquent taxes.

The tax collector shall maintain records listing the current status of all the installment accounts authorized under this section and the fact of each installment account shall be entered on the current roll.

SEC. 85. Section 4838 of the Revenue and Taxation Code is amended to read:

4838. If the roll of any taxing agency in course of preparation is lost or destroyed because of public calamity and is reconstructed from available data, at any time before the declaration of default the assessor may correct any erroneous assessment. The assessor shall:

(a) Send certified notices of the correction to the tax collector, the auditor, and the Controller.

(b) Enter opposite the description of property on the roll the date and nature of the correction.

SEC. 86. Section 4839 of the Revenue and Taxation Code is amended to read:

4839. The tax collector shall notify the Controller of a clerical error or misstatement of fact in a notice of power to sell tax-defaulted property.

SEC. 87. Section 4839.1 of the Revenue and Taxation Code is amended to read:

4839.1. If tax-defaulted property has been erroneously redeclared tax defaulted, or if property subject to a power of sale pursuant to Section 3691 has been erroneously redeclared tax defaulted or subject to a power of sale, the erroneous declarations may be canceled on the order of the board of supervisors.

SEC. 88. Section 4986.6 of the Revenue and Taxation Code is amended to read:

4986.6. When any real property escheats to the state after the lien

date and is not distributed by description, either because it is unknown, or is included in a general distribution clause without description, or is property as to which no probate proceedings have been taken, all taxes levied upon the real property are valid and any tax sale for those taxes conveys the same title thereto as if no escheat had occurred, notwithstanding any provision of law to the contrary. All those taxes levied upon the real property and tax sales duly taken pursuant to law occurring before the effective date of this section are hereby validated.

If any such real property is discovered prior to tax sale, the public administrator of the county in which the property is situated shall immediately commence probate proceedings with respect to the property, and the tax sale shall not be made.

SEC. 89. Section 4991 of the Revenue and Taxation Code is amended to read:

4991. If the tax collector declares property to be tax defaulted for taxes which were a lien on the property for any year, and:

(a) The taxes for that year had been paid prior to that date, or

(b) The taxes have been legally canceled, or

(c) The taxes are valid but an error subsequent to the levy of the taxes renders void the declaration; the tax collector, with the approval of the auditor, shall cancel the declaration. The fact and date of the cancellation shall be entered on the abstract or electronic data processing records.

If the tax collector is not operating under the provisions of Article 2 (commencing with Section 3446) of Chapter 2 of Part 6, the tax collector shall transmit a copy of the cancellation to the Controller in the form prescribed by the Controller.

SEC. 90. Section 4992 of the Revenue and Taxation Code is amended to read:

4992. If the tax collector declares property subject to a power of sale pursuant to Section 3691 and, either (a) the declaration that the property is tax defaulted is canceled under Section 4991, or (b) the power to sell is void because of any error occurring subsequent to the declaration , then the tax collector, with the approval of the auditor, shall cancel the power to sell in the form prescribed by the Controller. The cancellation shall be acknowledged, without charge, and shall be recorded with the county recorder, without charge.

The fact and date of the cancellation shall be entered on the abstract or electronic data processing records, and the tax collector shall transmit a copy of the recorded cancellation to the Controller.

SEC. 91. Section 5088 of the Revenue and Taxation Code is amended to read:

5088. Notwithstanding any other provision of this article, unpaid taxes, penalties, or costs shall not be transferred to the unsecured roll with respect to property that has become subject to a power of sale pursuant to Section 3691.

SEC. 92. Section 5090 of the Revenue and Taxation Code is amended to read:

5090. (a) If taxes, penalties, and costs that are not subject to cancellation pursuant to this article are unpaid at the time set for the declaration of default of property on the secured roll, they shall be transferred to the unsecured roll pursuant to Section 2921.5, and collected as provided therein.

(b) The statute of limitations on any suit brought to collect taxes, penalties, and costs transferred to the unsecured roll commences to run on the date of transfer, which date shall be entered on the unsecured roll by the auditor opposite the name of the assessee at the time the transfer is made.

(c) The amount of taxes, penalties, and costs collectible on the unsecured roll from a public entity pursuant to this article shall not exceed the amount paid for the property or awarded in the proceeding.

(d) The person from whom the property was acquired is liable to the public entity that acquired the property for any taxes, penalties, and costs collected on the unsecured roll from the public entity.

SEC. 93. Section 5830 of the Revenue and Taxation Code is amended to read:

5830. The assessment of any mobilehome shall be entered on the secured roll and shall be subject to all provisions of law applicable to taxes on the secured roll, provided, however:

(a) If the taxes on any mobilehome are not a lien on real property of the owner of the mobilehome pursuant to Section 2188.1, 2189, or 2189.3 and are unpaid when any installment of taxes on the secured roll becomes delinquent, the tax collector may use the procedures applicable to the collection of delinquent taxes on the unsecured roll; and

(b) If the taxes on any mobilehome which are not a lien on real property of the owner of the mobilehome remain unpaid at the time set for the declaration of default for delinquent taxes, the taxes on the mobilehome, together with any penalties and costs which may have accrued thereon while on the secured roll, shall be transferred to the unsecured roll.

(c) The taxes on mobilehomes may be paid in two installments as provided in Chapter 2.1 (commencing with Section 2700) of Part 5, notwithstanding the provisions of Section 2605 and whether or not the board of supervisors has adopted a resolution in accordance with Section 2700.

SEC. 94. (a) Every act and proceeding heretofore taken by any taxing agency or revenue district or the officers thereof relative to preparing, transmitting, computing, determining, or fixing the budget or the tax rate or taxes of any taxing agency or revenue district, or to the assessment or equalization of property or to the levy of taxes thereon or to tax collection, sales, or certificates of tax sales, tax deeds, or other conveyances, or to compliance with the requirements of Chapter 988 of the Statutes of 1984, are hereby confirmed, validated, and declared legally effective.

(b) As used in this section, "revenue district" includes every city

and district for which the county officers assess property and collect taxes or assessments.

As used in this section, "taxing agency" includes the county and city. "Taxing agency" also includes every district that assesses property for taxation purposes and levies taxes or assessments on the property so assessed.

(c) This section is limited to the correction of defects, irregularities, and ministerial errors which the Legislature originally could have omitted from the statutory requirements of law under which the acts hereby confirmed, validated, and declared legally effective were taken.

(d) This section is limited to the validating of acts and proceedings to the extent to which this validating can be effectuated under the California and United States Constitutions.

(e) This section shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding, now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(f) Nothing in this section shall operate to make valid any property tax rate which is in excess of that permitted by law.

(g) If any provisions of this section or its application to any person or circumstances are held invalid, the remainder of the section and application of its provisions to other persons or circumstances is not affected.

CHAPTER 317

An act to add Section 11171.5 to the Penal Code, relating to child abuse.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 11171.5 is added to the Penal Code, to read:

11171.5. (a) If a peace officer, in the course of an investigation of child abuse, has reasonable cause to believe that the child has been the victim of physical abuse, the officer may apply to a magistrate for an order directing that the victim be X-rayed without parental consent.

Any X-ray taken pursuant to this subdivision shall be administered by a physician and surgeon or dentist or their agents.

(b) With respect to the cost of an X-ray taken by the county

coroner or at the request of the county coroner in suspected child abuse cases, the county may charge the parent or legal guardian of the child-victim the costs incurred by the county for the X-ray.

(c) No person who administers an X-ray pursuant to this section shall be entitled to reimbursement from the county for any administrative cost that exceeds 5 percent of the cost of the X-ray.

CHAPTER 318

An act to amend Section 48900 of the Education Code, relating to schools.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 48900 of the Education Code is amended to read:

48900. A pupil shall not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has:

(a) Caused, attempted to cause, or threatened to cause physical injury to another person.

(b) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any such object, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance, as defined in Section 11007 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell any controlled substance, as defined in Section 11007 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, except as provided in Section 48901.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Had unlawful possession of, or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11364 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(*l*) Knowingly received stolen school property or private property.

No pupil shall be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance. A pupil may be suspended or expelled for acts which are enumerated in this section and related to school activity or attendance which occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school sponsored activity.

It is the intent of the Legislature that alternatives to suspensions or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities.

CHAPTER 319

An act to amend Sections 22843.5 and 22844 of the Elections Code, relating to elections.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 22843.5 of the Elections Code is amended to read:

22843.5. (a) If, by 5 p.m. on the 63rd day prior to the day fixed for a regularly scheduled municipal election, no one or only one person has been nominated for any office which is elected on a citywide basis, or no one or only one person is nominated to be elected from or by a legislative district, the city clerk shall submit a certificate of these facts to the governing body of the city and inform the governing body of the city that it may, at a regular or special meeting held before the municipal election, adopt one of the following courses of action:

(1) Appoint to the office the person who has been nominated.

(2) Appoint to the office any eligible elector if no one has been nominated.

(3) Hold the election if either no one or only one person has been nominated. The city clerk shall publish a notice of the facts described in this section and the courses of action available under this subdivision. Publication shall be made pursuant to Section 6061 of the Government Code in any newspaper of general circulation as designated by the clerk.

After the tenth day following the date of publication, the governing body of the city may make the appointment or direct an election to be held in the affected territory. The person appointed, if any, shall qualify and take office and serve exactly as if elected at a municipal election for the office.

If, by the 50th day before the municipal election, no person has been appointed to office pursuant to paragraph (1) or (2), the election shall be held.

(b) The provisions of subdivision (a) shall not apply if, at the regularly scheduled municipal election, more than one person has been nominated to another city office to be elected on a citywide basis or, a city measure has qualified and is to be submitted to the voters at that municipal election.

(c) Notwithstanding Chapter 8 (commencing with Section 7300) of Division 6 or any other provision of the law to the contrary, if the governing body of a city makes an appointment pursuant to subdivision (a), the clerk shall not accept for filing any statement of write-in candidacy which is submitted after the appointment is made.

In the event that an appointment to office is made in a particular legislative district pursuant to subdivision (a), that appointment shall not affect the conduct of the municipal election in other legislative districts of the city.

SEC. 2. Section 22844 of the Elections Code is amended to read:

22844. (a) If, by 5 p.m. on the 63rd day before a municipal election to fill any vacancy in office, no one or only one person has been nominated for any elective office to be filled at that election, and the election is subject to Section 36512 of the Government Code, the city clerk shall submit a certificate of these facts to the governing body of the city and inform the governing body of the city that it may, at a regular or special meeting held before the municipal election, adopt one of the following courses of action:

(1) Appoint to such office the person who has been nominated.

(2) Appoint to such office any eligible elector if no one has been nominated.

(3) Hold the election if either no one, or only one person, has been nominated.

The city clerk shall publish a notice of the facts described in this section and the courses of action available under this subdivision. Publication shall be made pursuant to Section 6061 of the Government Code in any newspaper of general circulation as

designated by the clerk.

After the tenth day following the date of publication, the governing body of the city may make such an appointment or direct an election to be held. The person appointed, if any, shall qualify and take office and serve exactly as if elected at a municipal election for that office.

If, by the 50th day before the municipal election, no person has been appointed to office pursuant to paragraph (1) or (2), the election shall be held.

Notwithstanding Section 7301 or any other provision of the law to the contrary, if the governing body of a city makes an appointment as provided in this section, the city clerk shall not accept for filing any statement of write-in candidacy which is submitted after the appointment is made.

(b) Nothing in this section shall be construed to prevent a city from enacting an ordinance pursuant to Section 36512.1 of the Government Code, requiring that a special election be held, or an ordinance pursuant to Section 36512.2 of the Government Code, providing that a person appointed to fill a vacancy on the city council holds office only until the date of a special election, or both. Such an ordinance or ordinances may allow for appointment without requiring or providing for a special election, consistent with subdivision (a).

CHAPTER 320

An act to add Article 4 (commencing with Section 50665) to Chapter 3 of Division 1 of Title 5 of, and to repeal Article 2 (commencing with Section 43648) of Chapter 4 of Division 4 of Title 4 of, the Government Code, relating to local agencies.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Article 2 (commencing with Section 43648) of Chapter 4 of Division 4 of Title 4 of the Government Code is repealed.

SEC. 2. Article 4 (commencing with Section 50665) is added to Chapter 3 of Division 1 of Title 5 of the Government Code, to read:

Article 4. Limited Obligation Bonds

50665.1. As used in this article:

(a) "Local agency" means any county, city, or city and county, including a chartered city.

(b) "Legislative body" means the city council in the case of a city,

and the board of supervisors in the case of a county.

(c) "Revenues" means the funds received by a local agency from any source or combination of sources, which a local agency is not precluded by any other provision of law from using for the purposes of this article. "Revenues" include the proceeds of ad valorem taxes on real property levied by, or allocated to, the local agency, and the proceeds of sales and use taxes.

(d) "Pledged revenue" means a specified annual dollar amount from a specified source or combination of sources of revenue, which the legislative body of a local agency, in a resolution providing for the issuance of limited obligation bonds, has designated and pledged as security for the bonds in accordance with Section 50665.7.

(e) "Limited obligation bonds" are bonds issued by a local agency which are to be paid solely from pledged revenue.

(f) "Initiating resolution" means a resolution by which a legislative body determines that public interest or necessity demands the issuance of bonds.

(g) "Resolution" means a resolution by which a legislative body authorizes the issuance, sale, and delivery of bonds.

50665.2. Limited obligation bonds may be issued for the acquisition, installation, construction, or improving of any or all public works or improvements which the local agency is otherwise authorized to acquire, install, construct, or improve, and for the acquisition of lands and easements therefor.

50665.3. In determining the amount of bonds to be issued, the legislative body may include:

(a) All costs and estimated costs incidental to or connected with the acquisition, construction, improving, or financing of the public works or improvements.

(b) All engineering, inspection, legal, and fiscal agent's fees, all costs of the bond election and of the issuance of limited obligation bonds, all bond reserve funds, and all bond interest estimated to accrue during the construction period and for a period determined by the legislative body after completion of construction.

50665.4. Proceedings are initiated when the legislative body passes an initiating resolution by a majority vote of all its members.

50665.5. For all local agencies, the initiating resolution shall recite each of the following:

(a) That the initiating resolution is being adopted pursuant to the powers granted by this article.

(b) The object and purpose of incurring the indebtedness.

(c) The estimated cost of the public improvements.

(d) The maximum amount of the indebtedness.

(e) A maximum rate of interest on the indebtedness.

(f) A pledge by the local agency that any bonds issued pursuant to the initiating resolution shall be secured by all or part of the revenues received by the local agency.

(g) The date of the election.

(h) The manner of holding the election and the procedure for

voting for or against the proposition.

50665.6. The initiating resolution shall be published once in a newspaper of general circulation in the local agency. If there is no such newspaper, it shall be posted in a public place within the jurisdiction of the local agency.

50665.7. The bonds and the resolution providing for their issuance shall state that the bonds are limited obligation bonds payable solely from revenues of the local agency pledged for that purpose.

In addition, the resolution of the legislative body providing for the issuance of limited obligation bonds shall specify the amount and source of revenue pledged therefor. The pledged revenue shall be sufficient to pay the following amounts annually, as they become due and payable:

(a) The interest on and the principal on the bonds.

(b) All payments required for compliance with the resolution authorizing issuance of the bonds or any other contract with the bondholders, including the creation of a sinking fund and reserve funds.

(c) All payments to meet any other obligations of the local agency which are charges, liens, or encumbrances on the pledged revenue.

50665.8. The proposition for incurring a bonded debt shall be submitted to the qualified voters of the local agency at an election held for that purpose. The election may be consolidated with any other election of the local agency.

50665.9. A proposition to be submitted to the voters of a local agency for approval of the issuance of limited obligation bonds shall state that the bonds are limited obligation bonds to be paid solely from pledged revenue, and shall specify the source and amount of the pledged revenue.

50665.10. Except as otherwise provided in the initiating resolution, any election required under this article shall be conducted as other elections of the local agency.

50665.11. When two or more propositions for incurring indebtedness are submitted at the same election, the votes cast for and against each proposition shall be counted separately.

50665.12. If two-thirds of the voters voting on a proposition initiated pursuant to this article vote for it, the legislative body may, by majority vote, adopt a resolution approving the issuance, sale, and delivery of the bonds.

50665.13. The bonds shall bear interest at a rate or rates not exceeding the maximum rate authorized by Section 53531, may be payable at the time or times, may be in one or more series, may bear a date or dates, may mature at a time or times not exceeding 31 years from their respective dates, may be payable in the medium of payment at a place or places, may carry the registration privileges, may be subject to the terms of redemption at the premiums, may be executed in a manner, may contain those terms, covenants and conditions, and may be in the form, either coupon or registered, as

the resolution authorizing the bonds 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. Pending the preparation of definitive bonds, interim receipts or certificates, in the form and with those provisions as may be provided in the resolution, may be issued to the purchaser or purchasers of bonds sold pursuant to this article. The bonds and interim receipts or certificates shall be deemed to be securities and negotiable instruments within the meaning and for all purposes of the Uniform Commercial Code of this state, subject to the provisions for registration thereof contained in the resolution.

Prior to approving the sale of bonds at a private sale, the legislative body of the issuing entity shall retain an investment firm which has had no prior underwriting relationship with the issuing entity on a similar bond issue within the previous three years to analyze the terms and conditions of the proposed bond issue. The bonds shall be sold at private sale only if the investment firm determines and reports to the legislative body that it has found the following to be true:

(a) The underwriter's price differential is reasonable.

(b) The final negotiated offering is consistent with common practices in the industry and is comparable to other bond offerings of a comparable amount that have been offered within the previous six months.

50665.14. The bonds are special obligations of the local agency and shall be a charge against and are secured by a lien upon and shall be payable, as to the principal thereof and interest thereon, and any premiums upon the redemption thereof, from the revenues and such funds as are described in the resolution authorizing the issuance of the bonds. If funds and revenues described in the authorizing resolution are insufficient for the payment of interest and principal on the bonds, the local agency, at its discretion, may make such payments from any other funds or revenues that may be legally applied to their payment.

50666. By resolution, the legislative body may pledge, place a charge upon, and assign all or any part of the revenues for the security of the bonds.

50666.1. The payment of interest on and principal of the bonds and any premiums upon the redemption of any thereof are secured by an exclusive pledge, charge, and lien upon all of the revenues.

50666.2. The revenues and any interest earned on the revenues constitute a trust fund for the security and payment of the interest on and principal of the bonds.

50666.3. So long as any bonds or interest thereon are unpaid following their maturity, the revenues and interest thereon shall not be used for any other purpose.

50666.4. If the interest and principal of the bonds and all charges to protect or secure them are paid when due, an amount or amounts for other purposes may be apportioned from the revenues.

50666.5. Bonds of the same issue shall be equally secured by a

pledge, charge, and lien upon the revenues specified in the resolution authorizing the issuance of the bonds, without priority for number, date of bonds, of sale, of execution, or of delivery pursuant to this article and the resolution authorizing the issuance of the bonds; except that any local agency may authorize the issuance of bonds of different series and may provide that the bonds in any series shall, to the extent and in the manner prescribed in the resolution, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as may be specified in the resolution.

50666.6. The general fund of a local agency is not liable for the payment of the bonds or their interest.

50666.7. The general credit or taxing power of the local agency, other than the revenues pledged, is not liable for the payment of the bonds or their interest.

50666.8. The holder of the bonds shall not compel the exercise of the taxing power by the local agency, other than the revenues pledged, or the forfeiture of its property.

50666.9. The principal of, and interest on, the bonds and any premiums upon the redemption of any thereof are not a debt of the local agency, nor a legal or equitable pledge, charge, lien, or encumbrance, upon any of its property, or upon any of its income, receipts, or revenues except the revenues that have been pledged to their payment.

50667. Every bond shall recite in substance that the principal of, and interest on, the bond are payable solely from the revenues pledged to the payment of the principal and interest and that the local agency is not obligated to pay the principal or interest except from the pledged revenues.

50667.1. The bonds and, any interest on, or income from, the bonds are exempt from taxation in this state, except from bank and corporation franchise, gift, inheritance, and estate taxes.

50667.2. In the resolution authorizing the bonds, the legislative body may insert any of the provisions authorized by this article, which shall become a part of the contract with the bondholders.

50667.3. The legislative body may provide limitations on:

(a) The purpose to which the proceeds of sale of any issue of bonds may be applied.

(b) The issuance of additional bonds for the same purpose and on the lien of additional bonds.

50667.4. The legislative body may provide for events of default and terms upon which the bonds may be declared due before maturity and the terms upon which the declaration and its consequences may be waived.

50667.5. The legislative body may provide for the rights, liabilities, powers, and duties arising upon the local agency's breach of any covenants, conditions, or obligations.

50667.6. The legislative body may provide for the vesting in a trustee of the right to enforce covenants to secure payment of, or in

relation to, the bonds and the trustee's powers and duties, and the limitation of his or her liabilities.

50667.7. The legislative body may provide for the terms upon which the bondholders or any percentage of the bondholders may enforce covenants or duties imposed by this article.

50667.8. The legislative body may provide in the resolution authorizing issuance of the bonds for a procedure for amending or abrogating the terms of the resolution with the consent of the holders of a specified number of the bonds.

50667.9. Any resolution containing a procedure specified in Section 50667.8 may also provide for meetings of bondholders or for their written assent without a meeting and the manner of consenting, with or without a meeting.

50668. The resolution shall specifically state the effect of amendment upon the rights of the holders of all of the bonds and shall be binding upon the holders of all of the bonds issued pursuant to the resolution.

50668.1. The legislative body may provide for any other acts and things necessary, convenient, or desirable to secure the bonds or tending to make them more marketable.

50668.2. The local agency shall pay or cause to be paid the principal and interest of the bonds on the date, at the place, and in the manner mentioned in the bonds and in accordance with the resolution authorizing their issuance.

50668.3. A separate, distinct, and special fund shall be created at or before the issuance of the bonds, which shall be maintained continuously during the time that any of the bonds or the interest thereon are outstanding and unpaid.

50668.4. All pledged revenue shall be deposited in the special fund and payments shall be made therefrom in the order specified in Section 50665.6.

50668.5. The local agency shall preserve and protect the security of the bonds and the rights of the bondholders and shall warrant and defend the rights of the bondholders against all claims and demands of all persons.

50668.6. In order to fully preserve and protect the priority and security of the bonds the local agency shall pay and discharge all lawful claims for labor, materials, and supplies, which if unpaid may become a lien or charge upon the revenues prior or superior to the lien of the bonds or impair the security of the bonds.

50668.7. The local agency shall hold in trust the revenues pledged to the payment of the principal of and interest on the bonds for the benefit of the bondholders and shall apply the same pursuant to the resolution authorizing the issuance of the bonds or to the resolution as modified.

50668.8. The local agency may invest funds held in reserve, or in any sinking fund, or funds not required for immediate disbursement, in property or securities in which the local agency may legally invest funds subject to its control. No such investment shall be made in

contravention of any covenant or agreement in any resolution authorizing the issuance of any outstanding bonds.

50668.9. The local agency shall keep proper books of record and accounts of the revenues, separate from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the revenues.

50669. At all times, the books shall be subject to the inspection of the holders of not less than 10 percent of the outstanding bonds or their representatives authorized in writing.

50669.1. The local agency shall cause to be published a summary statement showing the amount of revenues collected which are required as security for payment of the principal of and interest on the bonds, the disbursements from such revenues in reasonable detail, and a general financial statement.

50669.2. The statement shall be published annually, not more than 120 days after the close of each fiscal year. The local agency shall furnish a copy of the statement to any bondholder upon request.

50669.3. In the resolution authorizing the bonds, the local agency may agree that the statement shall be prepared or audited by an independent certified public accountant and shall be in the form and contain the detail specified in the resolution.

50669.4. The duties set forth in this article do not require the local agency to expend any funds other than revenues pledged to secure payment of the principal of or interest on bonds as provided in this article.

50669.5. A fiscal or paying agent may be appointed as now, or hereafter, provided in Article 7 (commencing with Section 54550) of Chapter 6 of Division 2 of Title 5.

50669.6. A validating proceeding may be conducted as now, or hereafter, provided in Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

50669.7. Bondholders shall have the remedies as now, or hereafter, provided in Article 10 (commencing with Section 54640) of Chapter 6 of Division 2 of Title 5.

50669.8. The bonds may be refunded in the manner now, or hereafter, provided in Article 11 (commencing with Section 54660) of Chapter 6 of Division 2 of Title 5.

50670. All bonds issued in pursuance of the provisions of this article shall by their issuance be conclusive evidence of the regularity, validity, and legal sufficiency of all proceedings, acts, and determinations in any wise pertaining thereto, had or made hereunder.

50670.1. Any action, suit, or proceeding of any kind or nature in which the validity of any of the proceedings taken under the provisions of this article is questioned or attacked, shall be filed within 30 days after the day of the adoption of the resolution providing for the issuance of the bonds and in case such action is not brought raising such issue within that period, then thereafter all persons whatsoever shall be barred in any action, suit, or proceeding

from pleading, asserting, or claiming that any of the proceedings or other actions herein specified, were defective, faulty, or invalid in any respect.

50670.3. This article provides an alternative authority and procedure for the subject to which it relates but does not affect any other law relating to the same or a similar subject. When proceeding under this article, its provisions only need be followed.

50670.4. This article and all of its provisions shall be liberally construed to the end that the purposes of this article may be effective. If any section, subdivision, sentence, clause, or phrase of this article is for any reason held to be unconstitutional, that decision shall not affect the validity of the remaining portion of this article. It is hereby declared that this article would have been passed irrespective of the fact that any one or more sections, subdivisions, sentences, clauses, or phrases be declared unconstitutional.

CHAPTER 321

An act to add Section 1361 to the Civil Code, relating to common interest subdivisions.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 1361 is added to the Civil Code, to read:

1361. (a) If the declaration for a common interest subdivision referred to in Section 11004.5 of the Business and Professions Code requires an affirmative vote of owners having more than 50 percent of the votes in the owners association, in a single-class voting structure, or owners having more than 50 percent of the votes in more than one class in a voting structure with more than one class, to amend the declaration, the association, or any member thereof who is also an owner of a lot, unit, parcel, or area within the common interest subdivision, may petition the superior court of the county in which the common interest subdivision or a portion of the common interest subdivision is located, for an order reducing the percentage of the affirmative votes necessary for such an amendment. The petition shall describe the efforts that have been made to solicit approval of the association members in the manner provided in the declaration, the number of affirmative and negative votes actually received, and the number or percentage of affirmative votes required to effect the amendment in accordance with the existing declaration, and other matters the petitioner considers relevant to the court's determination. The petition shall also contain, as exhibits thereto, copies of all of the following:

(1) The existing declaration.

(2) The bylaws and articles of incorporation, if any.

(3) A complete text of the amendment.

(4) Copies of any notice and solicitation materials utilized in the solicitation of owner approvals.

(5) A short explanation of the reason for the amendment.

(6) Any other documentation relevant to the court's determination.

(b) Upon filing the petition, the court shall set the matter for hearing and issue an ex parte order setting forth the manner in which notice shall be given.

(c) The court may, but shall not be required to, grant the petition if it finds all of the following:

(1) The petitioner has given not less than 15 days written notice of the court hearing to all members of the owners association and to any mortgagee of a mortgage or beneficiary of a deed of trust affecting any lot, unit, or parcel within the common interest subdivision who is entitled to notice under the terms of the declaration.

(2) Balloting on the amendment was conducted pursuant to, and in compliance with, all applicable provisions of the existing declaration and the other governing documents of the common interest subdivision.

(3) A reasonably diligent effort was made to cause all eligible members to vote on the amendment.

(4) Owners having more than 50 percent of the votes in the association, in a single-class voting structure, voted in favor of the amendment. In a voting structure with more than one class, owners having more than 50 percent of the votes of each class, required by the declaration to vote in favor of the amendment, voted in favor of the amendment.

(5) The amendment is reasonable.

(6) Granting the petition is not improper by virtue of any reason stated in subdivision (e).

(d) If the court makes the findings required by subdivision (c), any order issued pursuant to this section may confirm the amendment as being validly approved on the basis of the affirmative votes actually received during the balloting period or the order may dispense with any requirement relating to quorums or to the number or percentage of votes needed for approval of the amendment that would otherwise exist under the declaration and the other governing documents of the association.

(e) Subdivision (a) to (d), inclusive, notwithstanding, the court shall not be empowered by this section to approve any amendment to the declaration that:

(1) Would change provisions in the declaration requiring the approval of owners having more than 50 percent of the votes in more than one class to vote in favor of an amendment, unless owners having more than 50 percent of the votes in each affected class approved the amendment.

(2) Would impair the security interest of a mortgagee of a mortgage or the beneficiary of a deed of trust if the declaration requires the approval of a specified percentage of these mortgagees and beneficiaries without the approval of the percentage of these mortgagees and beneficiaries, specified in the declaration.

(3) Would eliminate any special rights, preferences, or privileges designated in the declaration as belonging to the declarant, without the consent of the declarant. As used in this paragraph, "declarant" means the person or group of persons designated in the declaration as the "declarant," or, if no declarant is designated, the person or group of persons who signed the original declaration or who succeeded to special rights, preferences, or privileges designated in the declaration as belonging to the signator of the original declaration.

(f) An amendment is not effective, pursuant to this section, until the amendment and court order have been recorded in every county in which a portion of the common interest subdivision is located. The amendment may be acknowledged and recorded by any person designated for that purpose, or, if no one is designated for that purpose, by the president of the association. Upon recordation, the declaration, as amended in accordance with this section, shall have the same force and effect as if the amendment were adopted in compliance with every requirement imposed by the declaration and the association's other governing documents.

(g) Within a reasonable time after the amendment is recorded, the association shall mail a copy of the amendment to each member of the association and a statement that the amendment has been recorded.

SEC. 2. Section 1 of this act shall not become operative if AB 314 of the 1985–86 Regular Session of the Legislature is chaptered, becomes effective on or before January 1, 1986, and adds Title 6 (commencing with Section 1350) to Part 4 of Divison 2 of the Civil Code.

CHAPTER 322

An act to amend Sections 70050 and 70052 of, and to add Section 70038 to, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 70038 is added to the Education Code, to read:

70038. Notwithstanding Section 70064 of the Education Code,

Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, or any other provision of law, the chief fiscal officer of the California Maritime Academy shall deposit into and maintain in local trust accounts, or in trust accounts in accordance with the provisions of Sections 16305 to 16305.7, inclusive, of the Government Code, or in the California Maritime Academy Trust Fund in the State Treasury, moneys received in connection with the following sources or purposes:

(a) Gifts, bequests, devises, and donations received under Section 70028.

(b) Any student loan or scholarship fund program including, but not limited to, student loan programs of the state and federal governments, and private sources.

(c) Advance payment for anticipated expenditures or encumbrances in connection with federal grants or contracts.

(d) Miscellaneous receipts in the nature of deposits and subject to return upon approval of a proper application.

(e) Fees and charges for services, materials, and facilities required of persons who at their option use the services or facilities, or are provided the materials, for which the fees or charges are made. Fees and charges so received and deposited shall be used solely to meet the costs of providing those services, facilities, and materials.

(f) Fees for student activities, as defined by the board of governors, and revenues derived from the conduct of student activities. The board of governors is authorized to administer and use the fees and revenues to support the student activities.

Money deposited and maintained under this section is continuously appropriated, without regard to fiscal year, to the California Maritime Academy for the support and improvement of the California Maritime Academy as may be determined by the Board of Governors consistent with the terms and conditions of any gift, bequest, devise, donation, or agreement under which the money was received. The money so deposited and maintained may be invested by the chief fiscal officer of the California Maritime Academy, or by the State Treasurer, as appropriate, upon approval of the board of governors, in those eligible securities listed in Section 16430 of the Government Code. All interest and other earnings received from that investment shall be used for purposes as may be determined by the board of governors consistent with this section and the terms and conditions of any gift, bequest, devise, donation, or agreement under which the funds were received.

SEC. 2. Section 70050 of the Education Code is amended to read:

70050. The board may, out of any appropriation made for the support of the school, without at the time furnishing vouchers and itemized statements, withdraw a sum or sums not to exceed fifty thousand dollars ($50,000) to be paid to the commanding officer of the vessel used by the school to provide for the payment of expenses of cruises. The sum or sums so drawn for any cruise or cruises shall, not later than two months following the termination of the cruise or

cruises, be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the State Controller. Any unexpended balance of the sum or sums so withdrawn shall be returned to the appropriation from which originally withdrawn.

SEC. 3. Section 70052 of the Education Code is amended to read:

70052. The commanding officer shall give a bond in the sum of fifty thousand dollars ($50,000), with a surety or sureties approved by the board for the proper disbursement of and accounting for the advances.

CHAPTER 323

An act to amend Section 11379.6 of the Health and Safety Code, and to amend Section 1203.073 of the Penal Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 11379.6 of the Health and Safety Code is amended to read:

11379.6. (a) Except as otherwise provided by law, every person who manufactures, compounds, converts, produces, derives, processes, or prepares, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, any controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 shall be punished by imprisonment in the state prison for three, five, or seven years.

(b) Except as otherwise provided by law, every person who offers to perform an act which is punishable under subdivision (a) shall be punished by imprisonment in the state prison for three, four, or five years.

SEC. 2. Section 1203.073 of the Penal Code is amended to read:

1203.073. (a) A person convicted of a felony specified in subdivision (b) may be granted probation only in an unusual case where the interests of justice would best be served; when probation is granted in such a case, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Except as provided in subdivision (a), probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who is convicted of violating Section 11351 of the Health and Safety Code by possessing for sale 28.5 grams or more of cocaine, or a substance containing 28.5 grams or more of cocaine.

(2) Any person who is convicted of violating Section 11378 of the Health and Safety Code by possessing for sale 28.5 grams or more of methamphetamine, or a substance containing 28.5 grams or more of methamphetamine.

(3) Any person who is convicted of violating subdivision (a) of Section 11379.6 of the Health and Safety Code, except those who manufacture phencyclidine, or who is convicted of an act which is punishable under subdivision (b) of Section 11379.6 of the Health and Safety Code, except those who offer to perform an act which aids in the manufacture of phencyclidine.

As used in this section, the term "manufacture" refers to the act of any person who manufactures, compounds, converts, produces, derives, processes, or prepares, either directly or indirectly by chemical extraction or independently by means of chemical synthesis.

SEC. 3. The Legislature finds and declares that Assembly Bill No. 3165 of the 1983–84 Regular Session of the Legislature was introduced to increase the penalties for those who illegally manufacture controlled substances. Due to a drafting error, the bill would have created an ambiguity regarding the application of Section 1203.07 of the Penal Code to the new provisions added by Assembly Bill No. 3165. Accordingly, the bill was returned by the Governor at the author's request.

The Legislature finds and declares that some provisions of Assembly Bill No. 3165 were nevertheless codified through the enactment of Assembly Bill No. 3876, Chapter 1635 of the Statutes of 1984, which conforms state and federal schedules classifying controlled substances.

The Legislature further finds and declares that it is the intent of this act to correct the ambiguities that were contained in Assembly Bill No. 3165 of the 1983–84 Regular Session of the Legislature and to provide related technical changes necessary to conform that bill with the provisions added by Assembly Bill No. 3876 of the 1983–84 Regular Session of the Legislature. Nothing in either measure, or their combined enactment, is or was intended to reduce any previously existing penalty relating to controlled substances.

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 prevent the further manufacture of controlled substances at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 324

An act to amend Section 1094.5 of the Code of Civil Procedure, to amend Sections 44944, 44944.1, 44948.3, 44948.5, 44949, 87678, 87679, 87680, 87681, 87682, and 87740 of the Education Code, and to amend Sections 11370.2, 11370.3, 11500, 11502, 11502.1, 11510, 11512, 11513, 11517, 11521, 11523, 11524, 11528, and 27727 of the Government Code, relating to administrative law.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 1094.5 of the Code of Civil Procedure is amended to read:

1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal, corporation, board, or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board, or officer may be filed with the petition, may be filed with respondent's points and authorities, or may be ordered to be filed by the court. Except when otherwise prescribed by statute, the cost of preparing the record shall be borne by the petitioner. Where the petitioner has proceeded pursuant to Section 68511.3 of the Government Code and the Rules of Court implementing that section and where the transcript is necessary to a proper review of the administrative proceedings, the cost of preparing the transcript shall be borne by the respondent. Where the party seeking the writ has proceeded pursuant to Section 1088.5, the administrative record shall be filed as expeditiously as possible, and may be filed with the petition, or by the respondent after payment of the costs by the petitioner, where required, or as otherwise directed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, the expense shall be taxable as costs.

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is

established if the court determines that the findings are not supported by the weight of the evidence. In all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) Notwithstanding subdivision (c), in cases arising from private hospital boards or boards of directors of districts organized pursuant to The Local Hospital District Law, Division 23 (commencing with Section 32000) of the Health and Safety Code, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record. However, in all cases in which the petition alleges discriminatory actions prohibited by Section 1316 of the Health and Safety Code, and the plaintiff makes a preliminary showing of substantial evidence in support of that allegation, the court shall exercise its independent judgment on the evidence and abuse of discretion shall be established if the court determines that the findings are not supported by the weight of the evidence.

(e) Where the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (f) remanding the case to be reconsidered in the light of that evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit the evidence at the hearing on the writ without remanding the case.

(f) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law, but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

(g) Except as provided in subdivision (h), the court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs first. However, no such stay shall be imposed or continued if the court is satisfied that it is against the public interest; provided that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay

shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

(h) (1) The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision of any licensed hospital or any state agency made after a hearing required by statute to be conducted under the provisions of the Administrative Procedure Act, as set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, conducted by the agency itself or an administrative law judge on the staff of the Office of Administrative Hearings pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs first. However, the stay shall not be imposed or continued unless the court is satisfied that the public interest will not suffer and that the licensed hospital or agency is unlikely to prevail ultimately on the merits; and provided further that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(2) The standard set forth in this subdivision for obtaining a stay shall apply to any administrative order or decision of an agency which issues licenses pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act. With respect to orders or decisions of other state agencies, the standard in this subdivision shall apply only when the agency has adopted the proposed decision of the administrative law judge in its entirety or has adopted the proposed decision but reduced the proposed penalty pursuant to subdivision (b) of Section 11517 of the Government Code; otherwise the standard in subdivision (g) shall apply.

(3) If an appeal is taken from a denial of the writ, the order or decision of the hospital or agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the hospital or agency is stayed pending the determination of the appeal unless the court to which

the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

SEC. 2. Section 44944 of the Education Code is amended to read:

44944. (a) In a dismissal or suspension proceeding initiated pursuant to Section 44934, if a hearing is requested by the employee, the hearing shall be commenced within 60 days from the date of the employee's demand for a hearing. The hearing shall be initiated, conducted, and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. However, the hearing date shall be established after consultation with the employee and the governing board, or their representatives, and the Commission on Professional Competence shall have all the power granted to an agency in that chapter, except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court. Notwithstanding any provision to the contrary, and except for the taking of oral depositions, no discovery shall occur later than 30 calendar days after the employee is served with a copy of the accusation pursuant to Section 11505 of the Government Code. In all cases, discovery shall be completed prior to seven calendar days before the date upon which the hearing commences. If any continuance is granted pursuant to Section 11524 of the Government Code, the time limitation for commencement of the hearing as provided in this subdivision shall be extended for a period of time equal to such continuance. However, the extension shall not include that period of time attributable to an unlawful refusal by either party to allow the discovery provided for in this section.

If the right of discovery granted under the preceding paragraph is denied by either the employee or the governing board, all the remedies in Section 2034 of the Code of Civil Procedure shall be available to the party seeking discovery and the court of proper jurisdiction, to entertain his or her motion, shall be the superior court of the county in which the hearing will be held.

The time periods in this section and of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall not be applied so as to deny discovery in a hearing conducted pursuant to this section.

The superior court of the county in which the hearing will be held may, upon motion of the party seeking discovery, suspend the hearing so as to comply with the requirement of the preceding

paragraph.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

(b) The hearing provided for in this section shall be conducted by a Commission on Professional Competence. One member of the commission shall be selected by the employee, one member shall be selected by the governing board, and one member shall be an administrative law judge of the Office of Administrative Hearings who shall be chairperson and a voting member of the commission and shall be responsible for assuring that the legal rights of the parties are protected at the hearing. If either the governing board or the employee for any reason fails to select a commission member at least seven calendar days prior to the date of the hearing, the failure shall constitute a waiver of the right to selection, and the county board of education or its specific designee shall immediately make the selection. When the county board of education is also the governing board of the school district or has by statute been granted the powers of a governing board, the selection shall be made by the Superintendent of Public Instruction, who shall be reimbursed by the school district for all costs incident to the selection.

The member selected by the governing board and the member selected by the employee shall not be related to the employee and shall not be employees of the district initiating the dismissal or suspension and shall hold a currently valid credential and have at least five years' experience within the past 10 years in the discipline of the employee.

(c) The decision of the Commission on Professional Competence shall be made by a majority vote, and the commission shall prepare a written decision containing findings of fact, determinations of issues, and a disposition which shall be, solely:

(1) That the employee should be dismissed.

(2) That the employee should be suspended for a specific period of time without pay.

(3) That the employee should not be dismissed or suspended.

The decision of the Commission on Professional Competence that the employee should not be dismissed or suspended shall not be based on nonsubstantive procedural errors committed by the school district or governing board unless the errors are prejudicial errors.

The commission shall not have the power to dispose of the charge of dismissal by imposing probation or other alternative sanctions. The imposition of suspension pursuant to paragraph (2) shall be available only in a suspension proceeding authorized pursuant to

subdivision (b) of Section 44932 or Section 44933.

The decision of the Commission on Professional Competence shall be deemed to be the final decision of the governing board.

The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section as may be necessary to effectuate this section.

The governing board and the employee shall have the right to be represented by counsel.

(d) (1) If the member selected by the governing board or the member selected by the employee is employed by any school district in this state the member shall, during any service on a Commission on Professional Competence, continue to receive salary, fringe benefits, accumulated sick leave, and other leaves and benefits from the district in which the member is employed, but shall receive no additional compensation or honorariums for service on the commission.

(2) If service on a Commission on Professional Competence occurs during summer recess or vacation periods, the member shall receive compensation proportionate to that received during the current or immediately preceding contract period from the member's employing district, whichever amount is greater.

(e) If the Commission on Professional Competence determines that the employee should be dismissed or suspended, the governing board and the employee shall share equally the expenses of the hearing, including the cost of the administrative law judge. The state shall pay any costs incurred under paragraph (2) of subdivision (d), the reasonable expenses, as determined by the administrative law judge, of the member selected by the governing board and the member selected by the employee, including, but not limited to payments or obligations incurred for travel, meals, and lodging, and the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee. The Controller shall pay all claims submitted pursuant to this paragraph from the General Fund, and may prescribe reasonable rules, regulations, and forms for the submission of the claims. The employee and the governing board shall pay their own attorney fees.

If the Commission on Professional Competence determines that the employee should not be dismissed or suspended, the governing board shall pay the expenses of the hearing, including the cost of the administrative law judge, any costs incurred under paragraph (2) of subdivision (d), the reasonable expenses, as determined by the administrative law judge, of the member selected by the governing board and the member selected by the employee, including, but not limited to payments or obligations incurred for travel, meals, and lodging, the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee, and reasonable attorney fees incurred by the employee.

As used in this section, "reasonable expenses" shall not be deemed "compensation" within the meaning of subdivision (d).

If either the governing board or the employee petitions a court of competent jurisdiction for review of the decision of the commission, the payment of expenses to members of the commission required by this subdivision shall not be stayed.

In the event that the decision of the commission is finally reversed or vacated by a court of competent jurisdiction, then either the state, having paid the commission members' expenses, shall be entitled to reimbursement from the governing board for those expenses, or the governing board, having paid the expenses, shall be entitled to reimbursement from the state.

Additionally, either the employee, having paid a portion of the expenses of the hearing, including the cost of the administrative law judge, shall be entitled to reimbursement from the governing board for the expenses, or the governing board, having paid its portion and the employee's portion of the expenses of the hearing, including the cost of the administrative law judge, shall be entitled to reimbursement from the employee for that portion of the expenses.

(f) The hearing provided for in this section shall be conducted in a place selected by agreement among the members of the commission. In the absence of agreement, the place shall be selected by the administrative law judge.

SEC. 3. Section 44944.1 of the Education Code is amended to read:

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

SEC. 4. Section 44948.3 of the Education Code is amended to read:

44948.3. (a) First and second year probationary employees may be dismissed during the school year for unsatisfactory performance determined pursuant to Article 11 (commencing with Section 44660) of Chapter 3, or for cause pursuant to Section 44932. Any dismissal pursuant to this section shall be in accordance with all of the following procedures:

(1) The superintendent of the school district or the superintendent's designee shall give 30 days' prior written notice of dismissal, not later than March 15 in the case of second year probationary employees. The notice shall include a statement of the reasons for the dismissal and notice of the opportunity to appeal. In

the event of a dismissal for unsatisfactory performance, a copy of the evaluation conducted pursuant to Section 44664 shall accompany the written notice.

(2) The employee shall have 15 days from receipt of the notice of dismissal to submit to the governing board a written request for a hearing. The governing board may establish procedures for the appointment of an administrative law judge to conduct the hearing and submit a recommended decision to the board. The failure of an employee to request a hearing within 15 days from receipt of a dismissal notice shall constitute a waiver of the right to a hearing.

(b) The governing board, pursuant to this section, may suspend a probationary employee for a specified period of time without pay as an alternative to dismissal.

(c) This section applies only to probationary employees whose probationary period commenced during the 1983–84 fiscal year or any fiscal year thereafter, and does not apply to probationary employees in a school district having an average daily attendance of less than 250 pupils.

SEC. 5. Section 44948.5 of the Education Code is amended to read:

44948.5. (a) This section applies only to (1) probationary employees of a school district with an average daily attendance of less than 250 pupils, or (2) those persons currently employed as probationary employees whose probationary period commenced prior to the 1983–84 fiscal year.

(b) No later than March 15 and before a probationary employee is given notice by the governing board that his or her services will not be required for the ensuing year for reasons other than those specified in Section 44955, the governing board and the employee shall be given written notice by the superintendent of the district or his or her designee, or, in the case of a district which has no superintendent, by the clerk or secretary of the governing board, that it has been recommended that the notice be given to the employee, and stating the reasons therefor.

If the probationary employee has been in the employ of the district for less than 45 days on March 15, the giving of the notice may be deferred until the 45th day of employment and all time period and deadline dates prescribed by this subdivision shall be coextensively extended.

Until the employee has requested a hearing as provided in subdivision (c) or has waived his or her right to a hearing, the notice and the reasons therefor shall be confidential and shall not be divulged by any person, except as may be necessary in the performance of duties. However, the violation of this requirement of confidentiality, in and of itself, shall not in any manner be construed as affecting the validity of any hearing conducted pursuant to this section.

(c) The employee may request a hearing to determine if there is cause for not reemploying him or her for the ensuing year. A request

for a hearing shall be in writing and shall be delivered to the person who sent the notice pursuant to subdivision (b), on or before a date specified in that subdivision, which shall not be less than seven days after the date on which the notice is served upon the employee. If an employee fails to request a hearing on or before the date specified, his or her failure to do so shall constitute a waiver of his or her right to a hearing. The notice provided for in subdivision (b) shall advise the employee of the provisions of this subdivision.

(d) In the event a hearing is requested by the employee, the proceeding shall be conducted and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the governing board shall have all the power granted to an agency therein, except that all of the following shall apply:

(1) The respondent shall file his or her notice of defense, if any, within five days after service upon him or her of the accusation and he or she shall be notified of this five-day period for filing in the accusation.

(2) The discovery authorized by Section 11507.6 of the Government Code shall be available only if request is made therefor within 15 days after service of the accusation, and the notice required by Section 11505 of the Government Code shall so indicate.

(3) The hearing shall be conducted by an administrative law judge who shall prepare a proposed decision, containing findings of fact and a determination as to whether the charges sustained by the evidence are related to the welfare of the schools and the pupils thereof. The proposed decision shall be prepared for the governing board and shall contain a determination as to the sufficiency of the cause and a recommendation as to disposition. However, the governing board shall make the final determination as to the sufficiency of the cause and disposition. None of the findings, recommendations, or determinations contained in the proposed decision prepared by the administrative law judge shall be binding on the governing board. Nonsubstantive procedural errors committed by the school district or governing board of the school district shall not constitute cause for dismissing the charges unless the errors are prejudicial errors. Copies of the proposed decision shall be submitted to the governing board and to the employee on or before May 7 of the year in which the proceeding is commenced. All expenses of the hearing, including the cost of the administrative law judge, shall be paid by the governing board from the district funds.

The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section as may be necessary to effectuate this section.

(e) The governing board's determination not to reemploy a probationary employee for the ensuing school year shall be for cause only. The determination of the governing board as to the sufficiency of the cause pursuant to this section shall be conclusive, but the cause

shall relate solely to the welfare of the schools and the pupils thereof. The decision made after the hearing shall be effective on May 15 of the year the proceeding is commenced.

(f) Notice to the probationary employee by the governing board that his or her service will not be required for the ensuing year, shall be given no later than May 15.

(g) If a governing board notifies a probationary employee that his or her services will not be required for the ensuing year, the board shall, within 10 days after delivery to it of the employee's written request, provide the employee with a statement of its reasons for not reemploying him or her for the ensuing school year.

(h) Any notice or request shall be deemed sufficient when it is delivered in person to the employee to whom it is directed, or when it is deposited in the United States registered mail, postage prepaid and addressed to the last known address of the employee.

(i) In the event that the governing board does not give notice provided for in subdivision (e) on or before May 15, the employee shall be deemed reemployed for the ensuing school year.

(j) If after request for hearing pursuant to subdivision (c) any continuance is granted pursuant to Section 11524 of the Government Code, the dates prescribed in subdivisions (d), (e), (f), and (i) which occur on or after the date of granting the continuance shall be extended for a period of time equal to the continuance.

SEC. 6. Section 44949 of the Education Code is amended to read:

44949. (a) No later than March 15 and before an employee is given notice by the governing board that his or her services will not be required for the ensuing year for the reasons specified in Section 44955, the governing board and the employee shall be given written notice by the superintendent of the district or his or her designee, or in the case of a district which has no superintendent by the clerk or secretary of the governing board, that it has been recommended that the notice be given to the employee, and stating the reasons therefor.

Until the employee has requested a hearing as provided in subdivision (b) or has waived his or her right to a hearing, the notice and the reasons therefor shall be confidential and shall not be divulged by any person, except as may be necessary in the performance of duties. However, the violation of this requirement of confidentiality, in and of itself, shall not in any manner be construed as affecting the validity of any hearing conducted pursuant to this section.

(b) The employee may request a hearing to determine if there is cause for not reemploying him or her for the ensuing year. A request for a hearing shall be in writing and shall be delivered to the person who sent the notice pursuant to subdivision (a), on or before a date specified in that subdivision, which shall not be less than seven days after the date on which the notice is served upon the employee. If an employee fails to request a hearing on or before the date specified, his or her failure to do so shall constitute his or her waiver of his or

her right to a hearing. The notice provided for in subdivision (a) shall advise the employee of the provisions of this subdivision.

(c) In the event a hearing is requested by the employee, the proceeding shall be conducted and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the governing board shall have all the power granted to an agency therein, except that all of the following shall apply:

(1) The respondent shall file his or her notice of defense, if any, within five days after service upon him or her of the accusation and he or she shall be notified of this five-day period for filing in the accusation.

(2) The discovery authorized by Section 11507.6 of the Government Code shall be available only if request is made therefor within 15 days after service of the accusation, and the notice required by Section 11505 of the Government Code shall so indicate.

(3) The hearing shall be conducted by an administrative law judge who shall prepare a proposed decision, containing findings of fact and a determination as to whether the charges sustained by the evidence are related to the welfare of the schools and the pupils thereof. The proposed decision shall be prepared for the governing board and shall contain a determination as to the sufficiency of the cause and a recommendation as to disposition. However, the governing board shall make the final determination as to the sufficiency of the cause and disposition. None of the findings, recommendations, or determinations contained in the proposed decision prepared by the administrative law judge shall be binding on the governing board. Nonsubstantive procedural errors committed by the school district or governing board of the school district shall not constitute cause for dismissing the charges unless the errors are prejudicial errors. Copies of the proposed decision shall be submitted to the governing board and to the employee on or before May 7 of the year in which the proceeding is commenced. All expenses of the hearing, including the cost of the administrative law judge, shall be paid by the governing board from the district funds.

The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section as may be necessary to effectuate this section.

(d) Any notice or request shall be deemed sufficient when it is delivered in person to the employee to whom it is directed, or when it is deposited in the United States registered mail, postage prepaid and addressed to the last known address of the employee.

(e) If after request for hearing pursuant to subdivision (b) any continuance is granted pursuant to Section 11524 of the Government Code, the dates prescribed in subdivision (c) which occur on or after the date of granting the continuance and the date prescribed in subdivision (c) of Section 44955 which occurs after the date of granting the continuance shall be extended for a period of time equal

to the continuance.

SEC. 7. Section 87678 of the Education Code is amended to read:

87678. If within 30 days of the receipt of the notification by the district governing board, no written confirmation of agreement of the employee and the governing board as to an arbitrator has been submitted to the secretary of the governing board for entry into its records, the governing board shall certify the matter to the Office of Administrative Hearings and request the appointment of an administrative law judge.

SEC. 8. Section 87679 of the Education Code is amended to read:

87679. The administrative law judge shall conduct proceedings in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court. In all cases, discovery shall be completed prior to one week before the date set for hearing. The written notice delivered to the employee pursuant to Section 87672 shall be deemed an accusation. The written objection of the employee delivered pursuant to Section 87673 shall be deemed the notice of defense.

SEC. 9. Section 87680 of the Education Code is amended to read:

87680. The administrative law judge shall determine whether there is cause to dismiss or penalize the employee. If he or she finds cause, he or she shall determine whether the employee shall be dismissed and determine the precise penalty to be imposed, and shall determine whether his or her decision should be imposed immediately or postponed pursuant to Section 87672.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

SEC. 10. Section 87681 of the Education Code is amended to read:

87681. In the case in which the administrative law judge determines that the operation of his or her decision should be postponed, any question of terminating the postponement shall be brought to the administrative law judge.

SEC. 11. Section 87682 of the Education Code is amended to read:

87682. The decision of the arbitrator or administrative law judge, as the case may be, may, on petition of either the governing board or the employee, be reviewed by a court of competent jurisdiction in the same manner as a decision made by an administrative law judge under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The court, on

review, shall exercise its independent judgment on the evidence. The proceeding shall be set for hearing at the earliest possible date and shall take precedence over all other cases, except older matters of the same character and matters to which special precedence is given by law.

SEC. 12. Section 87740 of the Education Code is amended to read:

87740. (a) No later than March 15 and before an employee is given notice by the governing board that his services will not be required for the ensuing year, the governing board and the employee shall be given written notice by the superintendent of the district or his or her designee, or in the case of a district which has no superintendent by the clerk or secretary of the governing board, that it has been recommended that the notice be given to the employee, and stating the reasons therefor.

If a contract employee has been in the employ of the district for less than 45 days on March 15, the giving of the notice may be deferred until the 45th day of employment and all time periods and deadline dates prescribed in this subdivision shall be coextensively extended.

Until the employee has requested a hearing as provided in subdivision (b) or has waived his or her right to a hearing, the notice and the reasons therefor shall be confidential and shall not be divulged by any person, except as may be necessary in the performance of duties. However, the violation of this requirement of confidentiality, in and of itself, shall not in any manner be construed as affecting the validity of any hearing conducted pursuant to this section.

(b) The employee may request a hearing to determine if there is cause for not reemploying him or her for the ensuing year. A request for a hearing must be in writing and must be delivered to the person who sent the notice pursuant to subdivision (a), on or before a date specified in that subdivision, which shall not be less than seven days after the date on which the notice is served upon the employee. If an employee fails to request a hearing on or before the date specified, this failure to do so shall constitute waiver of his or her right to a hearing. The notice provided for in subdivision (a) shall advise the employee of the provisions of this subdivision.

(c) In the event a hearing is requested by the employee, the proceeding shall be conducted and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the governing board shall have all the power granted to an agency in that chapter, except that all of the following shall apply:

(1) The respondent shall file his or her notice of defense, if any, within five days after service upon him or her of the accusation and he or she shall be notified of this five-day period for filing in the accusation.

(2) The discovery authorized by Section 11507.6 of the Government Code shall be available only if request is made therefor

within 15 days after service of the accusation, and the notice required by Section 11505 of the Government Code shall so indicate.

(3) The hearing shall be conducted by an administrative law judge who shall prepare a proposed decision, containing findings of fact and a determination as to whether the charges sustained by the evidence are related to the welfare of the schools and the students thereof. The proposed decision shall be prepared for the governing board and shall contain a determination as to the sufficiency of the cause and a recommendation as to disposition. However, the governing board shall make the final determination as to the sufficiency of the cause and disposition. None of the findings, recommendations, or determinations contained in the proposed decision prepared by the administrative law judge shall be binding on the governing board or on any court in future litigation. Copies of the proposed decision shall be submitted to the governing board and to the employee on or before May 7 of the year in which the proceeding is commenced. All expenses of the hearing, including the cost of the administrative law judge, shall be paid by the governing board from the district funds.

The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section as may be necessary to effectuate this section.

(d) The governing board's determination not to reemploy a contract employee for the ensuing school year shall be for cause only. The determination of the governing board as to the sufficiency of the cause pursuant to this section shall be conclusive, but the cause shall relate solely to the welfare of the schools and the students thereof and provided that cause shall include termination of services for the reasons specified in Section 87743. The decision made after the hearing shall be effective on May 15 of the year the proceeding is commenced.

(e) Notice to the contract employee by the governing board that the employee's service will not be required for the ensuing year shall be given no later than May 15.

(f) If a governing board notifies a contract employee that his or her services will not be required for the ensuing year, the board shall, within 10 days after delivery to it of the employee's written request, provide him or her with a statement of its reasons for not reemploying him or her for the ensuing school year.

(g) Any notice or request shall be deemed sufficient when it is delivered in person to the employee to whom it is directed, or when it is deposited in the United States registered mail, postage prepaid and addressed to the last known address of the employee.

(h) In the event that the governing board does not give notice provided for in subdivision (e) on or before May 15, the employee shall be deemed reemployed for the ensuing school year.

(i) If after request for hearing pursuant to subdivision (b) any continuance is granted pursuant to Section 11524 of the Government Code, the dates prescribed in subdivisions (c), (d), (e) and (h)

which occur on or after the date of granting the continuance shall be extended for a period of time equal to the continuance.

SEC. 13. Section 11370.2 of the Government Code is amended to read:

11370.2. (a) There is in the Department of General Services the Office of Administrative Hearings which is under the direction and control of an executive officer who shall be known as the director.

(b) The director shall have the same qualifications as administrative law judges, and shall be appointed by the Governor subject to the confirmation of the Senate.

(c) Any and all references in any law to the Office of Administrative Procedure shall be deemed to be the Office of Administrative Hearings.

SEC. 14. Section 11370.3 of the Government Code is amended to read:

11370.3. The director shall appoint and maintain a staff of full-time, and may appoint pro tempore part-time, administrative law judges qualified under Section 11502 which is sufficient to fill the needs of the various state agencies. The director shall also appoint hearing officers, shorthand reporters, and such other technical and clerical personnel as may be required to perform the duties of the office. The director shall assign an administrative law judge for any proceeding arising under Chapter 5 (commencing with Section 11500) and, upon request from any agency, may assign an administrative law judge or a hearing officer to conduct other administrative proceedings not arising under that chapter and shall assign hearing reporters as required. The director shall assign an administrative law judge for any proceeding arising pursuant to Chapter 20 (commencing with Section 22450) of Division 8 of the Business and Professions Code upon the request of a public prosecutor. Any administrative law judge, hearing officer, or other employee so assigned shall be deemed an employee of the office and not of the agency to which he or she is assigned. When not engaged in hearing cases, administrative law judges and hearing officers may be assigned by the director to perform other duties vested in or required of the office, including those provided for in Section 11370.5.

SEC. 15. Section 11500 of the Government Code is amended to read:

11500. In this chapter unless the context or subject matter otherwise requires:

(a) "Agency" includes the state boards, commissions, and officers enumerated in Section 11501 and those to which this chapter is made applicable by law, except that wherever the word "agency" alone is used the power to act may be delegated by the agency, and wherever the words "agency itself" are used the power to act shall not be delegated unless the statutes relating to the particular agency authorize the delegation of the agency's power to hear and decide.

(b) "Party" includes the agency, the respondent, and any person,

other than an officer or an employee of the agency in his or her official capacity, who has been allowed to appear or participate in the proceeding.

(c) "Respondent" means any person against whom an accusation is filed pursuant to Section 11503 or against whom a statement of issues is filed pursuant to Section 11504.

(d) "Administrative law judge" means an individual qualified under Section 11502.

(e) "Agency member" means any person who is a member of any agency to which this chapter is applicable and includes any person who himself or herself constitutes an agency.

(f) "Adjudicatory hearing" means a state agency hearing which involves the personal or property rights of an individual, the granting or revocation of an individual's license, or the resolution of an issue pertaining to an individual. However, the procedures governing such a hearing shall include, but not be limited to, all of the following:

(1) Testimony under oath.

(2) The right to cross-examination and to confront adversary witnesses.

(3) The right to representation.

(4) The issuance of a formal decision.

For purposes of this subdivision, an "adjudicatory hearing" shall not be required to include any informal factfinding or informal investigatory hearing. However, nothing in this subdivision shall be construed to prohibit an agency from providing an interpreter during any such informal hearing.

(g) "Language assistance" means oral interpretation or written translation of a language other than English into English or of English into another language for a party who cannot speak or understand English or who can do so only with difficulty.

SEC. 16. Section 11502 of the Government Code is amended to read:

11502. All hearings of state agencies required to be conducted under this chapter shall be conducted by administrative law judges on the staff of the Office of Administrative Hearings. The Director of the Office of Administrative Hearings has power to appoint a staff of administrative law judges for the office as provided in Section 11370.3 of the Government Code. Each administrative law judge shall have been admitted to practice law in this state for at least five years immediately preceding his or her appointment and shall possess any additional qualifications established by the State Personnel Board for the particular class of position involved.

SEC. 17. Section 11502.1 of the Government Code is amended to read:

11502.1. There is hereby established in the Office of Administrative Hearings a unit of administrative law judges who shall preside over hearings conducted pursuant to Part 1.5 (commencing with Section 437) of Division 1 of the Health and Safety Code. In addition to meeting the qualifications of

administrative law judges as prescribed in Section 11502, the administrative law judges in this unit shall have a demonstrated knowledge of health planning and certificate-of-need matters. As many administrative law judges as are necessary to handle the caseload shall be permanently assigned to this unit. In the event there are no pending certificate of need of health planning matters, administrative law judges in this unit may be assigned to other matters pending before the Office of Administrative Hearings. Health planning matters shall be given priority on the calendar of administrative law judges assigned to this unit.

SEC. 18. Section 11510 of the Government Code is amended to read:

11510. (a) Before the hearing has commenced, the agency or the assigned administrative law judge shall issue subpoenas and subpoenas duces tecum at the request of any party for attendance or production of documents at the hearing. Compliance with Section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of a subpoena duces tecum. After the hearing has commenced, the agency itself hearing a case or an administrative law judge sitting alone may issue subpoenas and subpoenas duces tecum.

(b) The process issued pursuant to subdivision (a) shall be extended to all parts of the state and shall be served in accordance with Sections 1987 and 1988 of the Code of Civil Procedure. No witness shall be obliged to attend unless the witness is a resident of the state at the time of service.

(c) All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the state or any political subdivision thereof, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed by law for witnesses in civil actions in a superior court. Witnesses appearing pursuant to subpoena, except the parties, who attend hearings at points so far removed from their residences as to prohibit return thereto from day to day shall be entitled in addition to fees and mileage to a per diem compensation of three dollars ($3) for expenses of subsistence for each day of actual attendance and for each day necessarily occupied in traveling to and from the hearing. Fees, mileage, and expenses of subsistence shall be paid by the party at whose request the witness is subpoenaed.

SEC. 19. Section 11512 of the Government Code is amended to read:

11512. (a) Every hearing in a contested case shall be presided over by an administrative law judge. The agency itself shall determine whether the administrative law judge is to hear the case alone or whether the agency itself is to hear the case with the administrative law judge.

(b) When the agency itself hears the case, the administrative law judge shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the agency on matters of law; the

agency itself shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the administrative law judge. When the administrative law judge alone hears a case, he or she shall exercise all powers relating to the conduct of the hearing.

(c) An administrative law judge or agency member shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any administrative law judge or agency member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. Where the request concerns an agency member, the issue shall be determined by the other members of the agency. Where the request concerns the administrative law judge, the issue shall be determined by the agency itself if the agency itself hears the case with the administrative law judge, otherwise the issue shall be determined by the administrative law judge. No agency member shall withdraw voluntarily or be subject to disqualification if his or her disqualification would prevent the existence of a quorum qualified to act in the particular case.

(d) The proceedings at the hearing shall be reported by a phonograhic reporter. However, upon the consent of all the parties, the proceedings may be reported electronically.

(e) Whenever, after the agency itself has commenced to hear the case with an administrative law judge presiding, a quorum no longer exists, the administrative law judge who is presiding shall complete the hearing as if sitting alone and shall render a proposed decision in accordance with subdivision (b) of Section 11517 of the Government Code.

SEC. 20. Section 11513 of the Government Code is amended to read:

11513. (a) Oral evidence shall be taken only on oath or affirmation.

(b) Each party shall have these rights: to call and examine witnesses, to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him or her. If respondent does not testify in his or her own behalf, he or she may be called and examined as if under cross-examination.

(c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of

supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

(d) The hearing shall be conducted in the English language, except that a party who does not proficiently speak or understand the English language and who requests language assistance shall be provided an interpreter approved by the administrative law judge or hearing officer conducting the proceedings. The cost of providing the interpreter shall be paid by the agency having jurisdiction over the matter if the administrative law judge or hearing officer so directs, otherwise the party for whom the interpreter is provided.

The administrative law judge's or hearing officer's decision to direct payment shall be based upon an equitable consideration of all the circumstances in each case, such as the ability of the party in need of the interpreter to pay, except with respect to hearings before the Workers' Compensation Appeals Board or the Division of Industrial Accidents relating to workers' compensation claims. With respect to these hearings, the payment of the costs of providing an interpreter shall be governed by the rules and regulations promulgated by the Workers' Compensation Appeals Board or the Administrative Director of the Division of Industrial Accidents, as appropriate. Such an interpreter shall be selected pursuant to regulations issued by both of the following:

(1) The State Personnel Board, which shall establish criteria for an interpreter's proficiency in both English and the language in which the person will testify.

(2) The employing agency, which shall establish materials and examinations for an interpreter's understanding of its technical program terminology and procedures.

(e) The State Personnel Board shall compile and publish a list of interpreters it has determined to be proficient in various languages and any interpreter so listed shall be eligible to be examined by each employing agency relating to its technical program terminology and procedures. Any interpreter whose language proficiency and knowledge of the terminology and procedures has been satisfactorily determined by the employing agency shall be deemed to be approved by an administrative law judge or a hearing officer of the agency.

(f) In the event that interpreters on the approved list cannot be present at the hearing, or if there is no interpreter on the approved list for a particular language, the hearing agency shall have discretionary authority to provisionally qualify and utilize other interpreters.

(g) Every state agency affected by this section shall advise each party of their right to an interpreter at the same time that each party is advised of the hearing date. Each party in need of an interpreter

shall also be encouraged to give timely notice to the agency conducting the hearing so that appropriate arrangements can be made.

(h) The rules of confidentiality of the agency, if any, which may apply in an adjudicatory hearing, shall apply to any interpreter in the hearing, whether or not the rules so state.

(i) The interpreter shall not have had any involvement in the issues of the case prior to the hearing.

As used in subdivisions (d) and (e), the terms "administrative law judge" and "hearing officer" shall not be construed to require the use of an Office of Administrative Hearings' administrative law judge or hearing officer.

SEC. 21. Section 11517 of the Government Code is amended to read:

11517. (a) If a contested case is heard before an agency itself, the administrative law judge who presided at the hearing shall be present during the consideration of the case and, if requested, shall assist and advise the agency. Where a contested case is heard before an agency itself, no member thereof who did not hear the evidence shall vote on the decision.

(b) If a contested case is heard by an administrative law judge alone, he or she shall prepare within 30 days after the case is submitted a proposed decision in such form that it may be adopted as the decision in the case. The agency itself may adopt the proposed decision in its entirety, or may reduce the proposed penalty and adopt the balance of the proposed decision.

Thirty days after receipt of the proposed decision, a copy of the proposed decision shall be filed by the agency as a public record and a copy shall be served by the agency on each party and his or her attorney.

(c) If the proposed decision is not adopted as provided in subdivision (b), the agency itself may decide the case upon the record, including the transcript, with or without taking additional evidence, or may refer the case to the same administrative law judge to take additional evidence. By stipulation of the parties, the agency may decide the case upon the record without including the transcript. If the case is assigned to an administrative law judge he or she shall prepare a proposed decision as provided in subdivision (b) upon the additional evidence and the transcript and other papers which are part of the record of the prior hearing. A copy of the proposed decision shall be furnished to each party and his or her attorney as prescribed in subdivision (b). The agency itself shall decide no case provided for in this subdivision without affording the parties the opportunity to present either oral or written argument before the agency itself. If additional oral evidence is introduced before the agency itself, no agency member may vote unless the member heard the additional oral evidence.

(d) The proposed decision shall be deemed adopted by the agency 100 days after delivery to the agency by the Office of

Administrative Hearings, unless within that time the agency commences proceedings to decide the case upon the record, including the transcript, or without the transcript where the parties have so stipulated, or the agency refers the case to the administrative law judge to take additional evidence. In a case where the agency itself hears the case, the agency shall issue its decision within 100 days of submission of the case. In a case where the agency has ordered a transcript of the proceedings, the 100-day period shall begin upon delivery of the transcript. If the agency finds that a further delay is required by special circumstances, it shall issue an order delaying the decision for no more than 30 days and specifying the reasons therefor. The order shall be subject to judicial review pursuant to Section 11523.

(e) The decision of the agency shall be filed immediately by the agency as a public record and a copy shall be served by the agency on each party and his or her attorney.

SEC. 22. Section 11521 of the Government Code is amended to read:

11521. (a) The agency itself may order a reconsideration of all or part of the case on its own motion or on petition of any party. The power to order a reconsideration shall expire 30 days after the delivery or mailing of a decision to respondent, or on the date set by the agency itself as the effective date of the decision if that date occurs prior to the expiration of the 30-day period or at the termination of a stay of not to exceed 30 days which the agency may grant for the purpose of filing an application for reconsideration. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

(b) The case may be reconsidered by the agency itself on all the pertinent parts of the record and such additional evidence and argument as may be permitted, or may be assigned to an administrative law judge. A reconsideration assigned to an administrative law judge shall be subject to the procedure provided in Section 11517. If oral evidence is introduced before the agency itself, no agency member may vote unless he or she heard the evidence.

SEC. 23. Section 11523 of the Government Code is amended to read:

11523. Judicial review may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure, subject, however, to the statutes relating to the particular agency. Except as otherwise provided in this section, any such petition shall be filed within 30 days after the last day on which reconsideration can be ordered. The right to petition shall not be affected by the failure to seek reconsideration before the agency. The complete record of the proceedings, or such parts thereof as are designated by the petitioner, shall be prepared by the agency and shall be delivered to petitioner, within 30 days after a request therefor by him or her, upon the payment of the fee specified in

Section 69950 of the Government Code, as now or hereinafter amended, for the transcript, the cost of preparation of other portions of the record, and for certification thereof. The complete record includes the pleadings, all notices and orders issued by the agency, any proposed decision by an administrative law judge, the final decision, a transcript of all proceedings, the exhibits admitted or rejected, the written evidence, and any other papers in the case. Where petitioner, within 10 days after the last day on which reconsideration can be ordered, requests the agency to prepare all or any part of the record, the time within which a petition may be filed shall be extended until 30 days after its delivery to him or her. The agency may file with the court the original of any document in the record in lieu of a copy thereof.

SEC. 24. Section 11524 of the Government Code is amended to read:

11524. (a) The agency may grant continuances. When an administrative law judge of the Office of Administrative Hearings has been assigned to the hearing, no continuance may be granted except by him or her or by the administrative law judge in charge of the appropriate regional office of the Office of Administrative Hearings, for good cause shown.

(b) When seeking a continuance, a party shall apply for the continuance within 10 working days following the time the party discovered or reasonably should have discovered the event or occurrence which establishes the good cause for the continuance. A continuance may be granted for good cause after the 10 working days have lapsed if the party seeking the continuance is not responsible for and has made a good faith effort to prevent the condition or event establishing the good cause.

(c) In the event that an application for a continuance by a party is denied by an administrative law judge of the Office of Administrative Hearings, and the party seeks judicial review thereof, the party shall, within 10 working days of the denial, make application for appropriate judicial relief in the superior court or be barred from judicial review thereof as a matter of jurisdiction. A party applying for judicial relief from the denial shall give notice to the agency and other parties. Notwithstanding Section 1010 of the Code of Civil Procedure, the notice may be either oral at the time of the denial of application for a continuance or written at the same time application is made in court for judicial relief. This subdivision does not apply to the Department of Alcoholic Beverage Control.

SEC. 25. Section 11528 of the Government Code is amended to read:

11528. In any proceedings under this chapter any agency, agency member, secretary of an agency, hearing reporter, or administrative law judge has power to administer oaths and affirmations and to certify to official acts.

SEC. 26. Section 27727 of the Government Code is amended to read:

27727. Any county or other local public entity may contract with the Office of Administrative Hearings of the State of California, and the office is hereby authorized to contract for services for an administrative law judge or a hearing officer to conduct proceedings pursuant to this chapter.

CHAPTER 325

An act to amend Sections 51326, 52020, 52097, 52097.5, and 52099 of, to add Section 52097.5 to, and to repeal Section 52097.5 of, the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 51326 of the Health and Safety Code is amended to read:

51326. This chapter shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 2. Section 52020 of the Health and Safety Code, as amended by Section 2 of Chapter 342 of the Statutes of 1984, is amended to read:

52020. (a) For purposes of a home financing program authorized by this part, a city or county has the following powers and duties:

(1) To acquire, contract, and enter into advance commitments to acquire, home mortgages made or owned by lending institutions at the purchase prices and upon the other terms and conditions as shall be determined by the city or county or other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages, and to pay the reasonable value of services rendered under those contracts. Prior to executing any contract with a lending institution, a city or county shall adopt regulations establishing criteria for qualification of lending institutions eligible to originate and service home mortgages under home financing programs authorized by this part and shall, with respect to each home financing progam, permit each qualified lending institution which transacts business in the city or county the opportunity to participate in the program on an equitable basis with other participating lending institutions. Two or more cities in the same county, or a county and one or more cities within the county, or two or more adjacent counties and any number of cities within those counties may enter into an agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing home

mortgages pursuant to this part with respect to property within the boundaries of any one or more of the entities.

(2) To make loans to lending institutions under terms and conditions which, in addition to other provisions as determined by the city or county, require the lending institutions to use all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount equal to the amount of the net proceeds.

(3) To establish, by rules or regulations, in resolutions relating to any issuance of bonds or in any documents relating to the issuance, the standards and requirements applicable to the purchase of home mortgages or the making of loans to lending institutions as the city or county deems necessary or desirable to effectuate the purposes of this part, which may include without limitation any of the following:

(A) The time within which lending institutions are required to make commitments and disbursements for home mortgages.

(B) The location and other characteristics of homes to be financed by home mortgages.

(C) The terms and conditions of home mortgages to be acquired.

(D) The amounts and types of any insurance coverage required on homes, home mortgages, and bonds.

(E) The representations and warranties of lending institutions confirming compliance with the standards and requirements.

(F) Restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions.

(G) The type and amount of collateral security to be provided to assure repayment of any loans from the city or county and to assure repayment of bonds.

(H) Any other matters related to the purchase of home mortgages or the making of loans to lending institutions as deemed relevant by the city or county.

(4) To require from each lending institution from which home mortgages are purchased or to which loans are made the submission of evidence satisfactory to the city or county of the ability and intention of the lending institution to make home mortgages, and the submission, within the time specified by the city or county for making disbursements for home mortgages, of evidence satisfactory to the city or county of the making of home mortgages and of compliance with any standards and requirements established by it.

(b) Each city or county which finances housing pursuant to this part shall designate a person or entity to administer the program.

(c) Each city or county which finances housing pursuant to this part shall adopt regulations establishing criteria for qualification of persons and families, which may differ among different cities or counties to reflect varying economic and housing conditions. In developing this criteria, factors similar to the following shall be taken into consideration:

(1) The amount of the income of the person or family that is available for housing needs.

(2) The size of the household.

(3) The costs and condition of available housing.

(4) The eligibility of the persons or families for federal housing assistance of any type.

(d) Criteria for qualification of persons and families pursuant to this section shall include a maximum household income, which maximum shall not exceed the following:

(1) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families shall also be 150 percent of the median household income. For purposes of this paragraph, a mortgage made for improving a home includes a home improvement loan as defined in Section 103A of Title 26 of the United States Code.

(2) One hundred twenty percent of the median household income where the purchaser will not be the first occupant. However, the city or county shall ensure that no less than 20 percent of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 110 percent of the median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 120 percent of median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed the median household income. The resolution is final and conclusive as to the findings required by this paragraph. However, the finding shall not be made by the legislative body before six months from the date mortgages were first made under the program and only if participating lenders have entered into an agreement with the city, county, or city and county that lenders will advertise at least monthly the availability of funds and will forfeit one-quarter of their origination fees if they are unable to use 20 percent of the funds to make mortgages to households whose income does not exceed 110 percent of the median income.

(3) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and which is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes

purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

As used in this subdivision, "median household income" means the highest of (A) statewide median household income, (B) countywide median household income, or (C) median family income for area as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

Any city or county which issued bonds pursuant to this chapter after August 1, 1981, may elect to apply this subdivision and subdivision (c) to mortgagors obtaining mortgages from the proceeds of the bonds.

(e) Each city or county which finances housing pursuant to this part shall allocate no less than 60 percent of the dollar amount of its financing from bond proceeds to fund loans for the purchase of homes where the purchaser will be the first occupant, or for substantial rehabilitation. As used in this chapter, "substantial rehabilitation" means rehabilitation in which the costs of rehabilitation equal or exceed 20 percent of the value of the structure after rehabilitation.

(f) Each city or county which finances housing pursuant to this part shall require each mortgagor under the program to certify his or her intention to occupy the home for a minimum of two years after receiving a home mortgage, with appropriate exceptions in hardship cases determined by the city or county.

(g) To do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this part.

(h) 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 enacted before January 1, 1987, deletes or extends that date. However, this section shall remain applicable to loans made on or after January 1, 1987, with the proceeds of bonds issued prior to that date.

SEC. 3. Section 52020 of the Health and Safety Code, as amended by Section 3 of Chapter 342 of the Statutes of 1984, is amended to read:

52020. (a) For purposes of a home financing program authorized by this part, a city or county has the following powers and duties:

(1) To acquire, contract, and enter into advance commitments to acquire, home mortgages made or owned by lending institutions at the purchase prices and upon the other terms and conditions as shall be determined by the city or county or other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages and to pay the reasonable value of services rendered under those contracts. Prior to executing any contract with a lending institution,

a city or county shall adopt regulations establishing criteria for qualification of lending institutions eligible to originate and service home mortgages under home financing programs authorized by this part and shall, with respect to each home financing program, permit each qualified lending institution which transacts business in the city or county the opportunity to participate in the program on an equitable basis with other participating lending institutions. Two or more cities in the same county, or a county and one or more cities within the county, or two or more adjacent counties and any number of cities within those counties may enter into an agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing home mortgages pursuant to this part with respect to property within the boundaries of any one or more of the entities.

(2) To make loans to lending institutions under terms and conditions which, in addition to other provisions as determined by the city or county, require the lending institutions to use all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount equal to the amount of the net proceeds.

(3) To establish, by rules or regulations, in resolutions relating to any issuance of bonds or in any documents relating to the issuance, standards and requirements applicable to the purchase of home mortgages or the making of loans to lending institutions as the city or county deems necessary or desirable to effectuate the purposes of this part, which may include without limitation any of the following:

(A) The time within which lending institutions are required to make commitments and disbursements for home mortgages.

(B) The location and other characteristics of homes to be financed by home mortgages.

(C) The terms and conditions of home mortgages to be acquired.

(D) The amounts and types of any insurance coverage required on homes, home mortgages and bonds.

(E) The representations and warranties of lending institutions confirming compliance with the standards and requirements.

(F) Restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions.

(G) The type and amount of collateral security to be provided to assure repayment of any loans from the city or county and to assure repayment of bonds.

(H) Any other matters related to the purchase of home mortgages or the making of loans to lending institutions as deemed relevant by the city or county.

(4) To require from each lending institution from which home mortgages are purchased or to which loans are made the submission of evidence satisfactory to the city or county of the ability and intention of the lending institution to make home mortgages, and the submission, within the time specified by the city or county for making disbursements for home mortgages, of evidence satisfactory

to the city or county of the making of home mortgages and of compliance with any standards and requirements established by it.

(b) Each city or county which finances housing pursuant to this part shall designate a person or entity to administer the program.

(c) Each city or county which finances housing pursuant to this part shall adopt regulations establishing criteria for qualification of persons and families, which may differ among different cities or counties to reflect varying economic and housing conditions. In developing this criteria, factors similar to the following shall be taken into consideration:

(1) The amount of the income of the person or family that is available for housing needs.

(2) The size of the household.

(3) The costs and condition of available housing.

(4) The eligibility of the persons or families for federal housing assistance of any type.

(d) Criteria for qualification of persons and families pursuant to this section shall include a maximum household income, which maximum shall not exceed the following:

(1) One hundred twenty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families shall also be 120 percent of the median household income.

(2) The median household income where the purchaser will not be the first occupant. However, the city or county shall ensure that no less than one-half of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 80 percent of that median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 90 percent of median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 80 percent of median household income. The resolution is final and conclusive as to the findings required by this paragraph.

(3) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and which is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the

Housing and Community Development Act of 1974, if the homes purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

As used in this subdivision, "median household income" means the highest of (A) statewide median household income, (B) countywide median household income, or (C) median family income for area as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(e) Each city or county which finances housing pursuant to this part shall allocate no less than 60 percent of the dollar amount of its financing from bond proceeds to fund loans for the purchase of homes where the purchaser will be the first occupant, or for substantial rehabilitation. As used in this chapter, "substantial rehabilitation" means rehabilitation in which the costs of rehabilitation equal or exceed 20 percent of the value of the structure after rehabilitation.

(f) Each city or county which finances housing pursuant to this part shall require each mortgagor under the program to certify his or her intention to occupy the home for a minimum of two years after receiving a home mortgage, with appropriate exceptions in hardship cases determined by the city or county.

(g) Each city and county may do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this part.

(h) This section shall become operative January 1, 1987.

SEC. 4. Section 52097 of the Health and Safety Code is amended to read:

52097. Except as otherwise provided in this article, this chapter shall not be construed to limit or otherwise restrict the authority of chartered cities to issue bonds for the purpose of financing the construction or development of multifamily rental housing or for the provision of capital improvements in connection with and determined necessary to that multifamily rental housing. For purposes of this article, certificates of participation in any form of obligation of a city, county, or city and county shall be considered to be bonds.

SEC. 5. Section 52097.5 of the Health and Safety Code is amended to read:

52097.5. At least 30 days prior to issuing bonds pursuant to this chapter, a charter provision, or ordinance for the purposes specified in Section 52097, a city, county, or city and county shall notify the State Treasurer that it intends to issue bonds pursuant to this chapter, a charter provision, or ordinance, the amount of bonds expected to be issued, and the approximate date on which the bonds will be issued. The State Treasurer shall advise the city, county, or city and

county of the aggregate amount of bonds previously issued in the calendar year pursuant to this chapter, a charter provision, or ordinance.

(b) Within five days of the issuance of bonds pursuant to this chapter, a charter provision, or ordinance, the city, county, or city and county shall notify the State Treasurer of the amount of bonds issued.

(c) The maximum aggregate amount of bonds which may be issued pursuant to this chapter, a charter provision, or ordinance for the purposes specified in Section 52097, shall not exceed two billion eight hundred million dollars ($2,800,000,000) in any calendar year. However, bonds may be issued without regard to that limitation for any development which is subject to a covenant which requires that, for the period required by subdivision (b) of Section 52080, not less than 10 percent of the total number of units in the development will be reserved for occupancy by individuals or families whose adjusted gross income does not exceed 50 percent of the median adjusted gross income for the area, adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. Sec. 1437f), or its successor, and if the rents for those units do not exceed the amount derived by multiplying 30 percent times 50 percent of the median adjusted gross income for the area, adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937, (42 U.S.C.A. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one bedroom unit, three persons in the case of a two bedroom unit, four persons in the case of a three bedroom unit, and five persons in the case of a four bedroom unit.

(d) No city, county, or city and county may issue any of the additional amount of bonds authorized to be issued pursuant to Assembly Bill 2052 of the 1985–86 Regular Session of the Legislature during the 1985 calendar year until any of the information required to be filed by Section 52098 has also been filed with the Treasurer and the Treasurer certifies to the Legislature that the information has been filed by that city, county, or city and county.

This section shall remain in effect until January 1, 1986, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1986, deletes or extends that date.

SEC. 6. Section 52097.5 is added to the Health and Safety Code, to read:

52097.5. (a) At least 30 days prior to issuing bonds pursuant to this chapter, a charter provision, or an ordinance for the purposes specified in Section 52097, an issuer shall notify the Mortgage Bond Allocation Committee in writing that the issuer intends to issue bonds pursuant to this chapter or such other authority. The notification shall specify the amount of bonds expected to be issued, the development or developments to be financed, and the development or developments, if any, that are subject to the restriction on occupancy described in subdivision (d). The Mortgage

Bond Allocation Committee shall advise the issuer of the aggregate amount of bonds previously issued in the calendar year pursuant to this chapter, charter provisions, or ordinances.

(b) An issuer shall certify to the Mortgage Bond Allocation Committee, at the time of filing the notification of intent to issue, that it has in an escrow specifically established for the purpose, an amount equal to 1 percent of the amount of bonds expected to be issued for developments other than developments to be owned by nonprofit or public entities. To the extent that bonds are not issued for the development or developments before the later of the end of the calendar year in which the notification of intent was filed or the passage of nine months during which amounts were available for the issuance under subdivision (d), a pro rata proportion of the amount in the escrow shall be forwarded to the Mortgage Bond Allocation Committee for immediate deposit in the Rental Housing Construction Fund established pursuant to Section 50740. To the extent that bonds are issued for the development or developments, or notwithstanding the preceding sentence, are not issued during the periods specified in the preceding sentence for reasons beyond the control of the issuer or the developer, as determined by the issuer, the amount in escrow may be released by the issuer to the appropriate person or entity and not forwarded to the committee for deposit in that fund.

(c) Within five days of the issuance of bonds pursuant to this chapter, a charter provision, or an ordinance for the purposes specified in Section 52097, the city, county, or city and county shall notify the Mortgage Bond Allocation Committee of the amount of the bonds issued.

(d) The maximum aggregate amount of bonds which may be issued pursuant to this chapter, charter provisions, or ordinances for the purposes specified in Section 52097, shall not exceed one billion five hundred million dollars ($1,500,000,000) in any calendar year. Not less than 10 percent of the total number of units in any development which is financed with any bonds issued on or after January 1, 1986, shall be reserved for occupancy by individuals or families whose adjusted gross income does not exceed 50 percent of the median adjusted gross income for the area, adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. Sec. 1437f), or its successor, and the rents for those units shall not exceed the amount derived by multiplying 30 percent times 50 percent of the median adjusted gross income for the area, adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937, (42 U.S.C.A. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one bedroom unit, three persons in the case of a two bedroom unit, four persons in the case of a three bedroom unit, and five persons in the case of a four bedroom unit.

(e) No city, county, or city and county may issue any bonds until

any information required to be filed pursuant to Section 8855.5 of the Government Code has been filed with the California Debt Advisory Commission and the Treasurer certifies to the Legislature that the city, county, or city and county has filed that information. Section 52098 shall not apply to bonds issued on or after January 1, 1986.

This section shall become operative January 1, 1986.

SEC. 7. Section 52099 of the Health and Safety Code is amended to read:

52099. This chapter shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date.

SEC. 8. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

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

In order to extend the authorization to issue revenue bonds to finance multifamily rental housing and to increase the amount of bonds that may be issued for that purpose as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 326

An act to amend Sections 123, 123.3, 123.5, 123.6, 123.7, 124, 130, 131, 132, 139, 4409.5, 5307.5, 5309, 5310, 5311, 5312, 5313, 5315, 5500.5, 5500.6, 5700, 5701, 5703, 5708, 5710, 5900, 5901, 5902, 5903, 5906, 5907, and 5908.5 of, and to add Section 27 to, the Labor Code, and to amend Section 2 of Chapter 402 of the Statutes of 1980, relating to workers' compensation.

[Approved by Governor July 26, 1985 Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 27 is added to the Labor Code, to read:

27. Whenever the term "referee" is used in this code in connection with the workers' compensation law, the term shall mean "workers' compensation judge."

SEC. 2. Section 123 of the Labor Code is amended to read:

123. The administrative director may employ necessary assistants, officers, experts, statisticians, actuaries, accountants,

workers' compensation judges, and other employees. The salaries of the workers' compensation judges shall be fixed by the Department of Personnel Administration for a class of positions which perform judicial functions.

SEC. 3. Section 123.3 of the Labor Code is amended to read:

123.3. Any official reporter employed by the administrative director shall render stenographic or clerical assistance as directed by the presiding workers' compensation judge of the office to which the reporter is assigned, when the presiding workers' compensation judge determines that the reporter is not engaged in the performance of any other duty imposed by law.

SEC. 4. Section 123.5 of the Labor Code is amended to read:

123.5. Workers' compensation judges employed by the administrative director pursuant to this chapter shall be taken from an eligible list of attorneys, having the qualifications prescribed by the State Personnel Board. In establishing eligible lists for this purpose, state civil service examinations shall be conducted by the State Personnel Board on a nonpromotional basis.

A workers' compensation judge may not receive his or her salary as a workers' compensation judge while any cause before the workers' compensation judge remains pending and undetermined for 90 days after it has been submitted for decision.

SEC. 5. Section 123.6 of the Labor Code is amended to read:

123.6. All workers' compensation judges employed by the administrative director shall subscribe to the California Code of Judicial Conduct adopted by the Conference of California Judges and shall not otherwise, directly or indirectly, engage in conduct contrary to that code.

SEC. 6. Section 123.7 of the Labor Code is amended to read:

123.7. The appeals board may, by rule or regulation, establish procedures whereby attorneys who are either certified specialists in workers' compensation by the California State Bar, or are eligible for this certification, may be appointed by the presiding workers' compensation judge of each board office to serve as a pro tempore workers' compensation judge in a particular case, upon the stipulation of the employee or his or her representative, and the employer or the insurance carrier. Service in this capacity by an attorney shall be voluntary and without pay. It is the intent of the Legislature that the use of pro tempore workers' compensation judges pursuant to this section shall not result in a reduction of the number of permanent civil service employees or the number of authorized full-time equivalent positions.

SEC. 7. Section 124 of the Labor Code is amended to read:

124. There is within the Division of Industrial Accidents a Disability Evaluation Bureau. The administrative director shall appoint a qualified specialist in the evaluation of permanent disability to serve as the chief of that bureau, and may appoint such assistant disability evaluation specialists as the work of the bureau may require. Those persons holding positions on the staff of the

division's permanent disability rating bureau shall be appointed and continue respectively as chief and assistant disability evaluation specialists under this section. The chief and the assistant disability evaluation specialists under his or her control and supervision shall:

(a) With the aid and advice of the medical director prepare the forms for approval by the administrative director as may be necessary or convenient for use of the division and of employees and employers, and those acting on their behalf, to facilitate and expedite the determination of the proper percentage of permanent disability, if any, for injuries under Division 4 (commencing with Section 3200) and Division 4.5 (commencing with Section 6100).

(b) Furnish to the administrative director, the appeals board, workers' compensation judges, and to employers and employees and those acting on their behalf, under such conditions as the administrative director may in rules and regulations prescribe, estimates of the percentages of permanent disability, if any, due under Article 3 (commencing with Section 4650), Chapter 2, Part 2, Division 4, either before or after the filing of an application under Chapter 3 (commencing with Section 5500), Part 4, Division 4.

(c) Include the formula used in computing the rating in every rating report, estimate, or recommendation prepared in writing.

(d) Perform those other functions as may be delegated to the Disability Evaluation Bureau by the administrative director.

SEC. 8. Section 130 of the Labor Code is amended to read:

130. The appeals board and each of its members, its secretary, assistant secretaries, and workers' compensation judges, may administer oaths, certify to all official acts, and issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state.

SEC. 9. Section 131 of the Labor Code is amended to read:

131. Each witness who appears by order of the appeals board or any of its members, or a workers' compensation judge, shall receive, if demanded, for his or her attendance the same fees and mileage allowed by law to a witness in civil cases, paid by the party at whose request the witness is subpoenaed, unless otherwise ordered by the appeals board. When any witness who has not been required to attend at the request of any party is subpoenaed by the appeals board, his or her fees and mileage may be paid from the funds appropriated for the use of the appeals board in the same manner as other expenses of the appeals board are paid. Any witness subpoenaed, except one whose fees and mileage are paid from the funds of the appeals board, may, at the time of service, demand the fee to which he or she is entitled for travel to and from the place at which he or she is required to appear, and one day's attendance. If a witness demands his or her fees at the time of service, and they are not at that time paid or tendered, he or she shall not be required to attend as directed in the subpoena. All fees and mileage to which any witness is entitled under this section may be collected by action

therefor instituted by the person to whom the fees are payable.

SEC. 10. Section 132 of the Labor Code is amended to read:

132. The superior court in and for the county in which any proceeding is held by the appeals board or a workers' compensation judge may compel the attendance of witnesses, the giving of testimony and the production of papers, including books, accounts, and documents, as required by any subpoena regularly issued hereunder. In case of the refusal of any witness to obey the subpoena the appeals board or the workers' compensation judge, before whom the testimony is to be given or produced, may report to the superior court in and for the county in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of the witness, or the production of the papers, that the witness has been subpoenaed in the prescribed manner, and that the witness has failed and refused to obey the subpoena, or has refused to answer questions propounded to him or her in the course of the proceeding, and ask an order of the court, compelling the witness to attend and testify or produce the papers before the appeals board. The court shall thereupon enter an order directing the witness to appear before the court at a time and place fixed in the order, the time to be not more than 10 days from the date of the order, and then and there show cause why he or she had not attended and testified or produced the papers before the appeals board or the workers' compensation judge. A copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued hereunder and that the witness was legally bound to comply therewith, the court shall thereupon enter an order that the witness appear before the appeals board or the workers' compensation judge at a time and place fixed in the order, and testify or produce the required papers, and upon failure to obey the order, the witness shall be dealt with as for contempt of court. The remedy provided in this section is cumulative, and shall not impair or interfere with the power of the appeals board or a member thereof to enforce the attendance of witnesses and the production of papers, and to punish for contempt in the same manner and to the same extent as courts of record.

SEC. 11. Section 139 of the Labor Code is amended to read:

139. The administrative director shall appoint a Medical and Chiropractic Advisory Committee composed of eight members, seven of whom shall be physicians and surgeons certificated to practice medicine in this state. One member of the Medical and Chiropractic Advisory Committee shall be a chiropractor licensed to practice chiropractic in this state. The seven physician and surgeon members of the advisory committee shall represent medical specialties concerned with the treatment of industrial injury and disease. The physician and surgeon members shall be appointed after consultation with statewide and local associations of the medical profession for two-year staggered terms. The chiropractic member shall be appointed after consultation with statewide and local

associations of the chiropractic profession for a term of two years. Vacancies shall be filled by appointment for the unexpired terms. Members shall receive actual necessary traveling expenses and a per diem of one hundred dollars ($100) for each day spent in meetings of the Medical and Chiropractic Advisory Committee. The Medical and Chiropractic Advisory Committee members shall counsel and assist the medical director and shall perform other duties as the administrative director may direct.

The members of the Medical and Chiropractic Advisory Committee shall, within the scope of each member's professional training, do all the following:

(a) Maintain liaison with the medical and chiropractic professions.

(b) Assist in recruiting doctors for the medical bureau.

(c) Advise the medical director as to selection and removal of independent medical or chiropractic examiners.

(d) Assist, within the scope of each member's professional training, in developing guidelines for determination of disputed questions of clinical fact.

(e) Suggest standards for improving care furnished injured employees.

(f) Undertake continuing studies of developments in the field of rehabilitation, and continuously inform treating physicians and surgeons and chiropractors of these developments.

(g) Advise the division regarding reasonable levels of fees for physicians and surgeons and chiropractors performing services under this code.

The administrative director shall appoint for renewable terms of two years, independent expert medical examiners in each of the respective specialties as may be required. The administrative director shall appoint for renewable terms of two years, independent expert chiropractic examiners.

Assignment of cases to independent examiners shall be made at the request of the administrative director, the secretary of the appeals board, or a workers' compensation judge by the medical director or his or her assistant in each office where a unit of the medical bureau is maintained or by the workers' compensation judge in charge in other offices of the division. Insofar as possible, a rotation method of assignment of independent medical or expert chiropractic examiners shall be followed.

The examiners shall conduct examinations and report their findings and opinions in accordance with guidelines developed for that purpose by the medical director of the division.

Payment for the examination shall be made by the Division of Industrial Accidents from funds appropriated for that purpose or for the support of the division's medical bureau, or in accordance with Section 5703.5.

SEC. 12. Section 4409.5 of the Labor Code is amended to read:

4409.5. The administrative director shall appoint workers' compensation judges and support staff who shall give priority to the

processing of the claims of asbestos workers.

SEC. 13. Section 5307.5 of the Labor Code is amended to read:

5307.5. The appeals board or a workers' compensation judge may:

(a) Appoint a trustee or guardian ad litem to appear for and represent any minor or incompetent upon the terms and conditions which it deems proper. The guardian or trustee shall, if required by the appeals board, give a bond in the form and of the character required by law from a guardian appointed by a superior court and in the amount which the appeals board determines. The bond shall be approved by the appeals board, and the guardian or trustee shall not be discharged from liability until he or she files an account with the appeals board or with the superior court and the account is approved. The trustee or guardian shall receive the compensation for his or her services fixed and allowed by the appeals board or by the superior court.

(b) Provide for the joinder in the same proceeding of all persons interested therein, whether as employer, insurer, employee, dependent, creditor, or otherwise.

SEC. 14. Section 5309 of the Labor Code is amended to read:

5309. The appeals board may, in accordance with rules of practice and procedure which it shall adopt and upon the agreement of the parties, on the application of either, or of its own motion, and with or without notice, direct and order a workers' compensation judge:

(a) To try the issues in any proceeding before it, whether of fact or of law, and make and file a finding, order, decision, or award based thereon.

(b) To hold hearings and ascertain facts necessary to enable the appeals board to determine any proceeding or to make any order, decision, or award that the appeals board is authorized to make under Divisions 4 or 5, or necessary for the information of the appeals board.

SEC. 15. Section 5310 of the Labor Code is amended to read:

5310. The appeals board may appoint one or more workers' compensation judges in any proceeding, as it may deem necessary or advisable, and may refer, remove to itself, or transfer to a workers' compensation judge the proceedings on any claim. The administrative director may appoint workers' compensation judges. Any workers' compensation judge appointed by the administrative director has the powers, jurisdiction, and authority granted by law, by the order of appointment, and by the rules of the appeals board.

SEC. 16. Section 5311 of the Labor Code is amended to read:

5311. Any party to the proceeding may object to the reference of the proceeding to a particular workers' compensation judge upon any one or more of the grounds specified in Section 641 of the Code of Civil Procedure and the objection shall be heard and disposed of by the appeals board. Affidavits may be read and witnesses examined as to the objections.

SEC. 17. Section 5312 of the Labor Code is amended to read:

5312. Before entering upon his or her duties, the workers' compensation judge shall be sworn, before an officer authorized to administer oaths, faithfully and fairly to hear and determine the matters and issues referred to him or her, to make just findings and to report according to his or her understanding.

SEC. 18. Section 5313 of the Labor Code is amended to read:

5313. The appeals board or the workers' compensation judge shall, within 30 days after the case is submitted, make and file findings upon all facts involved in the controversy and an award, order, or decision stating the determination as to the rights of the parties. Together with the findings, decision, order or award there shall be served upon all the parties to the proceedings a summary of the evidence received and relied upon and the reasons or grounds upon which the determination was made.

SEC. 19. Section 5315 of the Labor Code is amended to read:

5315. Within 60 days after the filing of the findings, decision, order or award, the appeals board may confirm, adopt, modify or set aside the findings, order, decision, or award of a workers' compensation judge and may, with or without further proceedings, and with or without notice, enter its order, findings, decision, or award based upon the record in the case.

SEC. 20. Section 5500.5 of the Labor Code is amended to read:

5500.5. (a) Except as otherwise provided in Section 5500.6, liability for occupational disease or cumulative injury claims filed or asserted on or after January 1, 1978, shall be limited to those employers who employed the employee during a period of four years immediately preceding either the date of injury, as determined pursuant to Section 5412, or the last date on which the employee was employed in an occupation exposing him or her to the hazards of the occupational disease or cumulative injury, whichever occurs first. Commencing January 1, 1979, and thereafter on the first day of January for each of the next two years, the liability period for occupational disease or cumulative injury shall be decreased by one year so that liability is limited in the following manner:

For claims filed or asserted on or after:	The period shall be:
January 1, 1979	three years
January 1, 1980	two years
January 1, 1981 and thereafter	one year

In the event that none of the employers during the above referenced periods of occupational disease or cumulative injury are insured for workers' compensation coverage or an approved alternative thereof, liability shall be imposed upon the last year of employment exposing the employee to the hazards of the occupational disease or cumulative injury for which an employer is insured for workers' compensation coverage or an approved alternative thereof.

Any employer held liable for workers' compensation benefits as a result of another employer's failure to secure the payment of compensation as required by this division shall be entitled to reimbursement from the employers who were unlawfully uninsured during the last year of the employee's employment, and shall be subrogated to the rights granted to the employee against the unlawfully uninsured employers under the provisions of Article 1 (commencing with Section 3700) of Chapter 4 of Part 1 of Division 4.

If, based upon all the evidence presented, the appeals board or workers' compensation judge finds the existence of cumulative injury or occupational disease, liability for the cumulative injury or occupational disease shall not be apportioned to prior or subsequent years; however, in determining the liability, evidence of disability due to specific injury, disability due to nonindustrial causes, or disability previously compensated for by way of a findings and award or order approving compromise and release, or a voluntary payment of disability, may be admissible for purposes of apportionment.

(b) Where a claim for compensation benefits is made on account of an occupational disease or cumulative injury which may have arisen out of more than one employment, the application shall state the names and addresses of all employers liable under subdivision (a), the places of employment, and the approximate periods of employment where the employee was exposed to the hazards of the occupational disease or cumulative injury. If the application is not so prepared or omits necessary and proper employers, any interested party, at or prior to the first hearing, may request the appeals board to join as defendant any necessary or proper party. If the request is made prior to the first hearing on the application, the appeals board shall forthwith join the employer as a party defendant and cause a copy of the application together with a notice of the time and place of hearing to be served upon the omitted employer; provided, the notice can be given within the time specified in this division. If the notice cannot be timely given or if the motion for joinder is made at the time of the first hearing, then the appeals board or the workers' compensation judge before whom the hearing is held, if it is found that the omitted employer named is a necessary or proper party, may order a joinder of the party and continue the hearing so that proper notice may be given to the party or parties so joined. Only one continuance shall be allowed for the purpose of joining additional parties. Subsequent to the first hearing the appeals board shall join as a party defendant any additional employer when it appears that the employer is a proper party, but the liability of the employer shall not be determined until supplemental proceedings are instituted.

(c) In any case involving a claim of occupational disease or cumulative injury occurring as a result of more than one employment within the appropriate time period set forth in subdivision (a), the employee making the claim, or his or her dependents, may elect to proceed against any one or more of the employers. Where such an election is made, the employee must successfully prove his or her

claim against any one of the employers named, and any award which the appeals board shall issue awarding compensation benefits shall be a joint and several award as against any two or more employers who may be held liable for compensation benefits. If, during the pendency of any claim wherein the employee or his or her dependents has made an election to proceed against one or more employers, it should appear that there is another proper party not yet joined, the additional party shall be joined as a defendant by the appeals board on the motion of any party in interest, but the liability of the employer shall not be determined until supplemental proceedings are instituted. Any employer joined as a defendant subsequent to the first hearing or subsequent to the election provided herein shall not be entitled to participate in any of the proceedings prior to the appeal board's final decision, nor to any continuance or further proceedings, but may be permitted to ascertain from the employee or his or her dependents such information as will enable the employer to determine the time, place, and duration of the alleged employment. On supplemental proceedings, however, the right of the employer to full and complete examination or cross-examination shall not be restricted.

(d) (1) In the event a self-insured employer which owns and operates a work location in the State of California, sells or has sold the ownership and operation of the work location pursuant to a sale of a business or all or part of the assets of a business to another self-insured person or entity after January 1, 1974, but before January 1, 1978, and all the requirements of subparagraphs (A) to (D), inclusive, exist, then the liability of the employer-seller and employer-buyer, respectively, for cumulative injuries suffered by employees employed at the work location immediately before the sale shall, until January 1, 1986, be governed by the provisions of this section which were in effect on the date of that sale.

(A) The sale constitutes a material change in ownership of such work location.

(B) The person or entity making the purchase continues the operation of the work location.

(C) The person or entity becomes the employer of substantially all of the employees of the employer-seller.

(D) The agreement of sale makes no special provision for the allocation of liabilities for workers' compensation between the buyer and the seller.

(2) For purposes of this subdivision:

(A) "Work location" shall mean any fixed place of business, office, or plant where employees regularly work in the trade or business of the employer.

(B) A "material change in ownership" shall mean a change in ownership whereby the employer-seller does not retain, directly or indirectly, through one or more corporate entities, associations, trusts, partnerships, joint ventures, or family members, a controlling interest in the work location.

(3) This subdivision shall have no force or effect on or after January 1, 1986, unless otherwise extended by the Legislature prior to that date, and it shall not have any force or effect as respects an employee who, subsequent to the sale described in paragraph (1) and prior to the date of his or her application for compensation benefits has been filed, is transferred to a different work location by the employer-buyer.

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

(e) At any time within one year after the appeals board has made an award for compensation benefits in connection with an occupational disease or cumulative injury, any employer held liable under the award may institute proceedings before the appeals board for the purpose of determining an apportionment of liability or right of contribution. The proceeding shall not diminish, restrict, or alter in any way the recovery previously allowed the employee or his or her dependents, but shall be limited to a determination of the respective contribution rights, interest or liabilities of all the employers joined in the proceeding, either initially or supplementally; provided, however, if the appeals board finds on supplemental proceedings for the purpose of determining an apportionment of liability or of a right of contribution that an employer previously held liable in fact has no liability, it may dismiss the employer and amend its original award in such manner as may be required.

(f) If any proceeding before the appeals board for the purpose of determining an apportionment of liability or of a right of contribution where any employee incurred a disability or death resulting from silicosis in underground metal mining operations, the determination of the respective rights and interests of all of the employers joined in the proceedings either initially or supplementally shall be as follows:

(1) All employers whose underground metal mining operations resulted in a silicotic exposure during the period of the employee's employment in those operations shall be jointly and severally liable for the payment of compensation and of medical, surgical, legal and hospital expense which may be awarded to the employee or his or her estate or dependents as the result of disability or death resulting from or aggravated by the exposure.

(2) In making its determination in the supplemental proceeding for the purpose of determining an apportionment of liability or of a right of contribution of percentage liabilities of the various employers engaged in underground metal mining operations the appeals board shall consider as a rebuttal presumption that employment in underground work in any mine for a continuous period of more than three calendar months will result in a silicotic exposure for the employee so employed during the period of employment if the under-

ground metal mine was driven or sunk in rock having a composition which will result in dissemination of silica or silicotic dust particles when drilled, blasted, or transported.

(g) Any employer shall be entitled to rebut the presumption by showing to the satisfaction of the appeals board, or the workers' compensation judge, that the mining methods used by the employer in the employee's place of employment did not result during his or her employment in the creation of silica dust in sufficient amount or concentration to constitute a silicotic hazard. Dust counts, competently made, at intervals and in locations as meet the requirements of the Division of Occupational Safety and Health for safe working conditions may be received as evidence of the amount and concentration of silica dust in the workings where the counts have been made at the time when they were made. The appeals board may from time to time, as its experience may indicate proper, promulgate orders as to the frequency with which dust counts shall be taken in different types of workings in order to justify their acceptance as evidence of the existence or nonexistence of a silicotic hazard in the property where they have been taken.

(h) The amendments to this section adopted at the 1959 Regular Session of the Legislature shall operate retroactively, and shall apply retrospectively to any cases pending before the appeals board or courts. From and after the date this section becomes effective no payment shall be made out of the fund used for payment of the additional compensation provided for in Section 4751, or out of any other state funds, in satisfaction of any liability heretofore incurred or hereafter incurred, except awards which have become final without regard to the continuing jurisdiction of the appeals board on that effective date, and the state and its funds shall be without liability therefor. This subdivision shall not in any way effect a reduction in any benefit conferred or which may be conferred upon any injured employee or his dependents.

(i) The amendments to this section adopted at the 1977 Regular Session of the Legislature shall apply to any claims for benefits under this division which are filed or asserted on or after January 1, 1978, unless otherwise specified in this section.

SEC. 21. Section 5500.6 of the Labor Code is amended to read:

5500.6. Liability for occupational disease or cumulative injury which results from exposure solely during employment as an employee, as defined in subdivision (d) of Section 3351, shall be limited to those employers in whose employment the employee was exposed to the hazards of the occupational disease or cumulative injury during the last day on which the employee was employed in an occupation exposing the employee to the hazards of the disease or injury. In the event that none of the employers of the last day of hazardous employment is insured for workers' compensation liability, that liability, shall be imposed upon the last employer exposing the employee to the hazards of the occupational disease or cumulative injury who has secured workers' compensation insurance coverage

or an approved alternative thereto. If, based upon all the evidence presented, the appeals board or the workers' compensation judge finds the existence of cumulative injury or occupational disease, liability for the cumulative injury or occupational disease shall not be apportioned to prior employers. However, in determining liability, evidence of disability due to specific injury, disability due to nonwork-related causes, or disability previously compensated for by way of a findings and award or order approving compromise and release, or a voluntary payment of disability, may be admissible for purposes of apportionment.

SEC. 22. Section 5700 of the Labor Code is amended to read:

5700. The hearing on the application may be adjourned from time to time and from place to place in the discretion of the appeals board or the workers' compensation judge holding the hearing. Any hearing adjourned by the workers' compensation judge shall be continued to be heard by and shall be concluded and the decision made by the workers' compensation judge who previously heard it. Either party may be present at any hearing, in person, by attorney, or by any other agent, and may present testimony pertinent under the pleadings.

SEC. 23. Section 5701 of the Labor Code is amended to read:

5701. The appeals board may, with or without notice to either party, cause testimony to be taken, or inspection of the premises where the injury occurred to be made, or the timebooks and payroll of the employer to be examined by any member of the board or a workers' compensation judge appointed by the appeals board. The appeals board may also from time to time direct any employee claiming compensation to be examined by a regular physician. The testimony so taken and the results of any inspection or examination shall be reported to the appeals board for its consideration.

SEC. 24. Section 5703 of the Labor Code is amended to read:

5703. The appeals board may receive as evidence either at or subsequent to a hearing, and use as proof of any fact in dispute, the following matters, in addition to sworn testimony presented in open hearing:

(a) Reports of attending or examining physicians.

(b) Reports of special investigators appointed by the appeals board or a workers' compensation judge to investigate and report upon any scientific or medical question.

(c) Reports of employers, containing copies of timesheets, book accounts, reports, and other records properly authenticated.

(d) Properly authenticated copies of hospital records of the case of the injured employee.

(e) All publications of the Division of Industrial Accidents.

(f) All official publications of state and United States governments.

(g) Excerpts from expert testimony received by the appeals board upon similar issues of scientific fact in other cases and the prior decisions of the appeals board upon similar issues.

SEC. 25. Section 5708 of the Labor Code is amended to read:

5708. All hearings and investigations before the appeals board or a workers' compensation judge are governed by this division and by the rules of practice and procedures adopted by the appeals board. In the conduct thereof they shall not be bound by the common law or statutory rules of evidence and procedure, but may make inquiry in the manner, through oral testimony and records, which is best calculated to ascertain the substantial rights of the parties and carry out justly the spirit and provisions of this division. All oral testimony, objections, and rulings shall be taken down in shorthand by a competent phonographic reporter.

SEC. 26. Section 5710 of the Labor Code is amended to read:

5710. (a) The appeals board, a workers' compensation judge, or any party to the action or proceeding, may, in any investigation or hearing before the appeals board, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state. To that end the attendance of witnesses and the production of records may be required. Depositions may be taken outside the state before any officer authorized to administer oaths. The appeals board or a workers' compensation judge in any proceeding before the appeals board may cause evidence to be taken in other jurisdictions before the agency authorized to hear workers' compensation matters in those other jurisdictions.

(b) Where the employer or insurance carrier requests a deposition to be taken of an injured employee, or any person claiming benefits as a dependent of an injured employee, the deponent is entitled to receive in addition to all other benefits:

(1) All reasonable expenses of transportation, meals and lodging incident to the deposition.

(2) Reimbursement for any loss of wages incurred during attendance at the deposition.

(3) A copy of the transcript of the deposition, without cost.

(4) A reasonable allowance for attorney's fees for the deponent, if represented by an attorney. The fee shall be discretionary with, and, if allowed, shall be set by, the appeals board, but shall be paid by the employer or his or her insurer.

SEC. 27. Section 5900 of the Labor Code is amended to read:

5900. (a) Any person aggrieved directly or indirectly by any final order, decision, or award made and filed by the appeals board or a workers' compensation judge under any provision contained in this division, may petition the appeals board for reconsideration in respect to any matters determined or covered by the final order, decision, or award, and specified in the petition for reconsideration. The petition shall be made only within the time and in the manner specified in this chapter.

(b) At any time within 60 days after the filing of an order, decision, or award made by a workers' compensation judge and the accompanying report, the appeals board may, on its own motion, grant recon-

sideration.

SEC. 28. Section 5901 of the Labor Code is amended to read:

5901. No cause of action arising out of any final order, decision or award made and filed by the appeals board or a workers' compensation judge shall accrue in any court to any person until and unless the appeals board on its own motion sets aside the final order, decision, or award and removes the proceeding to itself or if the person files a petition for reconsideration, and the reconsideration is granted or denied. Nothing herein contained shall prevent the enforcement of any final order, decision, or award, in the manner provided in this division.

SEC. 29. Section 5902 of the Labor Code is amended to read:

5902. The petition for reconsideration shall set forth specifically and in full detail the grounds upon which the petitioner considers the final order, decision or award made and filed by the appeals board or a workers' compensation judge to be unjust or unlawful, and every issue to be considered by the appeals board. The petition shall be verified upon oath in the manner required for verified pleadings in courts of record and shall contain a general statement of any evidence or other matters upon which the applicant relies in support thereof.

SEC. 30. Section 5903 of the Labor Code is amended to read:

5903. At any time within 20 days after the service of any final order, decision, or award made and filed by the appeals board or a workers' compensation judge granting or denying compensation, or arising out of or incidental thereto, any person aggrieved thereby may petition for reconsideration upon one or more of the following grounds and no other:

(a) That by the order, decision, or award made and filed by the appeals board or the workers' compensation judge, the appeals board acted without or in excess of its powers.

(b) That the order, decision, or award was procured by fraud.

(c) That the evidence does not justify the findings of fact.

(d) That the petitioner has discovered new evidence material to him or her, which he or she could not, with reasonable diligence, have discovered and produced at the hearing.

(e) That the findings of fact do not support the order, decision, or award.

Nothing contained in this section shall limit the grant of continuing jurisdiction contained in Sections 5803 to 5805, inclusive.

SEC. 31. Section 5906 of the Labor Code is amended to read:

5906. Upon the filing of a petition for reconsideration, or having granted reconsideration upon its own motion, the appeals board may, with or without further proceedings and with or without notice affirm, rescind, alter, or amend the order, decision, or award made and filed by the appeals board or the workers' compensation judge on the basis of the evidence previously submitted in the case, or may grant reconsideration and direct the taking of additional evidence. Notice of the time and place of any hearing on reconsideration shall

be given to the petitioner and adverse parties and to other persons as the appeals board orders.

SEC. 32. Section 5907 of the Labor Code is amended to read:

5907. If at the time of granting reconsideration, it appears to the satisfaction of the appeals board that no sufficent reason exists for taking further testimony, the appeals board may affirm, rescind, alter or amend the order, decision, or award made and filed by the appeals board or the workers' compensation judge and may, without further proceedings, without notice, and without setting a time and place for further hearing, enter its findings, order, decision, or award based upon the record in the case.

SEC. 33. Section 5908.5 of the Labor Code is amended to read:

5908.5. Any decision of the appeals board granting or denying a petition for reconsideration or affirming, rescinding, altering, or amending the original findings, order, decision, or award following reconsideration shall be made by the appeals board and not by a workers' compensation judge and shall be in writing, signed by a majority of the appeals board members assigned thereto, and shall state the evidence relied upon and specify in detail the reasons for the decision.

The requirements of this section shall in no way be construed so as to broaden the scope of judicial review as provided for in Article 2 (commencing with Section 5950) of this chapter.

SEC. 34. Section 2 of Chapter 402 of the Statutes of 1980 is amended to read:

Sec. 2. Except as specifically provided, nothing contained herein shall otherwise affect the status of workers' compensation judges employed by the administrative director.

CHAPTER 327

An act to amend Sections 19254 and 26423 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 26, 1985. Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 19254 of the Revenue and Taxation Code is amended to read:

19254. (a) The Franchise Tax Board, for the purpose of administering its duties under this part, including ascertaining the correctness of any return; making a return where none has been made; determining or collecting the liability of any person in respect of any liability imposed by this part (or the liability at law or in equity of any transferee in respect of such liability); shall have the power to examine any books, papers, records, or other data, which may be

relevant to such purpose.

(b) The Franchise Tax Board may require the attendance of the taxpayer or of any other person having knowledge in the premises and may take testimony and require material proof for its information and administer oaths to carry out the provisions of this part.

(c) The Franchise Tax Board may issue subpoenas or subpoenas duces tecum, which subpoenas must be signed by any member of the Franchise Tax Board and may be served on any person for any purpose.

(d) Obedience to subpoenas or subpoenas duces tecum issued in accordance with this section may be enforced by application to the superior court as set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 26423 of the Revenue and Taxation Code is amended to read:

26423. (a) The Franchise Tax Board, for the purpose of administering its duties under this part, including ascertaining the correctness of any return; making a return where none has been made, determining or collecting the liability of any person in respect of any liability imposed by this part (or the liability at law or in equity of any transferee in respect of such liability); shall have the power to examine any books, papers, records, or other data, which may be relevant to such purpose.

(b) The Franchise Tax Board may require the attendance of the taxpayer or of any other person having knowledge in the premises and may take testimony and require material proof for its information and administer oaths to carry out the provisions of this part.

(c) The Franchise Tax Board may issue subpoenas or subpoenas duces tecum, which subpoenas must be signed by any member of the Franchise Tax Board and may be served on any person for any purpose.

(d) Obedience to subpoenas or subpoenas duces tecum issued in accordance with this section may be enforced by application to the superior court as set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 328

An act to add Section 5956 to the Harbors and Navigation Code, relating to harbor improvement districts.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 5956 is added to the Harbors and Navigation Code, to read:

5956. The district may purchase, collect, trade, exchange, or otherwise acquire exhibition or study material necessary or proper for the use of museums or exhibits maintained by the district, and may sell, lend, or exchange the material, according to the established custom of museums.

CHAPTER 329

An act to amend Sections 305, 5224, 7224, 9224, and 12364 of the Corporations Code, relating to corporations.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 305 of the Corporations Code is amended to read:

305. (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 approval of the board (Section 151) or, if the number of directors then in office is less than a quorum, by (1) the unanimous written consent of the directors then in office, (2) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice complying with Section 307 or (3) a sole remaining director. Unless the articles or a bylaw adopted by the shareholders 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 shareholders (Section 153).

(b) The shareholders may elect a director at any time to fill any vacancy not filled by the directors. Any such election by written consent other than to fill a vacancy created by removal requires the consent of a majority of the outstanding shares entitled to vote.

(c) If, after the filling of any vacancy by the directors, the directors then in office who have been elected by the shareholders shall constitute less than a majority of the directors then in office, then both of the following shall be applicable:

(1) Any holder or holders of an aggregate of 5 percent or more of the total number of shares at the time outstanding having the right to vote for those directors may call a special meeting of shareholders, or

(2) The superior court of the proper county shall, upon application of such shareholder or shareholders, summarily order a special meeting of shareholders, to be held to elect the entire board. The term of office of any director shall terminate upon that election of a successor.

The hearing on any application filed pursuant to this subdivision shall be held on not less than 10 business days notice to the corporation. If the corporation intends to oppose the application, it shall file with the court a notice of opposition not later than five business days prior to the date set for the hearing. The application and any notice of opposition shall be supported by appropriate affidavits and the court's determination shall be made on the basis of the papers in the record; but, for good cause shown, the court may receive and consider at the hearing additional evidence, oral or documentary, and additional points and authorities. The hearing shall take precedence over all other matters not of a similar nature pending on the date set for the hearing.

(d) 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.

SEC. 2. Section 5224 of the Corporations Code is amended to read:

5224. (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 approval of the board (Section 5032) or, if the number of directors then in office is less than a quorum, by (1) the unanimous written consent of the directors then in office, (2) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice complying with Section 5211, or (3) a sole remaining director. Unless the articles or a bylaw approved by the members (Section 5034) provide that the board may fill vacancies occurring in the board by reason of the removal of directors, or unless the corporation has no members pursuant to Section 5310, such vacancies may be filled only by approval of the members (Section 5034).

(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.

SEC. 3. Section 7224 of the Corporations Code is amended to read:

7224. (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 approval of the board (Section 5032) or, if the number of directors then in office is less than a quorum, by (1) the unanimous written consent of the directors then in office, (2) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice complying with Section 7211, or (3) a sole remaining director. Unless the articles or a bylaw approved by the members (Section 5034) provide that the board may fill vacancies occurring in the board by reason of the removal of directors, or unless the corporation has no members pursuant to Section 7310, such vacancies may be filled only by approval of the members (Section 5034).

(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.

SEC. 4. Section 9224 of the Corporations Code is amended to read:

9224. (a) Unless otherwise provided in the articles or bylaws and except for a vacancy created by the removal of a director by the members, vacancies on the board may be filled by approval of the board (Section 5032) or, if the number of directors then in office is less than a quorum, by (1) the unanimous written consent of the directors then in office, (2) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or waivers of notice complying with Section 9211, or (3) a sole remaining director.

(b) Subject to any provision in the articles or bylaws, 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.

SEC. 5. Section 12364 of the Corporations Code is amended to read:

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 approval of the board (Section 12222) or, if the number of directors then in office is less than a quorum, by (1) the unanimous written consent of the directors then in office, (2) the affirmative vote of a majority of the directors then in office at a meeting held pursuant to notice or

waivers of notice complying with Section 12351, or (3) 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.

CHAPTER 330

An act to amend Sections 20930.11 and 31648.3 of the Government Code, relating to public retirement systems.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 20930.11 of the Government Code is amended to read:

20930.11. "Public service," with respect to a local member who is a full-time employee, also means any time on or after January 1, 1981, but not to exceed 12 months, during which the local member is laid off. The service credit provided by this section shall not exceed one year and shall be provided to any person who: (1) returns within 12 months of the date of layoff to full-time employment under the procedures of the employer for returning laid-off employees to work; (2) elects to purchase the public service credit within three years of return to work; and (3) redeposits any contributions which had been withdrawn at the commencement of, or during, the period of the layoff.

This section shall not apply to any contracting agency nor to the employees of a contracting agency unless and until the agency elects to be subject to this section by contract or by amendment to its contract made in the manner prescribed for approval of contracts.

SEC. 2. Section 31648.3 of the Government Code is amended to read:

31648.3. A member who is a full-time employee and returns within 12 months of the date of layoff to full-time service following a period of layoff commencing on or after January 1, 1981, but not to exceed 12 months, may receive service credit for the period of the

absence, but not to exceed one year, upon the payment of the contributions that the member would have paid during that period, together with the interest that the contributions would have earned had they been on deposit, if the member was not absent. The contributions may be paid in lump sum or may be paid on a monthly basis for a period of not more than the length of the period for which service credit is claimed. The service credit provided by this section shall be provided only to persons who have returned to employment under the procedures of the employer for returning laid-off employees to work and shall not exceed one year of service credit. The decision of the member to redeposit withdrawn contributions shall be made within five years from the date the member is rehired. Upon completion of the redeposit with interest, the entry age of the member shall be adjusted to the original age of entry and membership is reestablished to that date.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make this section applicable in the county.

SEC. 3. 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. 4. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 331

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

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. The Legislature recognizes that the unanticipated and unbudgeted expenses associated with the recruitment, selection, hiring, and relocation of a new chancellor for the California Community Colleges have placed a severe strain on the budget of the chancellor's office. The Legislature further recognizes that the varied expenses incurred in that respect were reasonable and appropriate.

SEC. 2. The sum of one hundred thousand dollars ($100,000) is

hereby appropriated from the General Fund to the Chancellor's Office of the California Community Colleges for the costs resulting from the recruitment, selection, hiring, and relocation of a new chancellor for the California Community Colleges, and for related expenses, as incurred in the 1984–85 and 1985–86 fiscal years.

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

In order to permit the Chancellor's Office of the California Community Colleges to fulfill its financial obligations for the 1984–85 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 332

An act to add Section 44034 to the Education Code, relating to certificated employees.

[Approved by Governor July 28, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 44034 is added to the Education Code, to read:

44034. Any classroom teacher who, in the interest of improving his or her personal teaching techniques, wishes to use an audio recording device in a classroom to record classroom instructional presentations, may employ that device without the necessity of obtaining the approval of the school principal or other school officials.

CHAPTER 333

An act to amend Sections 13112.1 and 13112.2 of the Health and Safety Code, relating to fire training.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 13112.1 of the Health and Safety Code is amended to read:

13112.1. Notwithstanding Section 1463 of the Penal Code, all fines and forfeitures imposed by or collected in any court of this state, as a result of citations issued by the State Fire Marshal or salaried

deputy state fire marshals employed by the State of California, for any violation of this part or of any regulation adopted pursuant to this part, shall be deposited, as soon as practicable after the receipt of the fine or forfeiture, with the county treasurer of the county in which the court is situated. Amounts so deposited shall be paid at least once a month as follows:

(a) One-half to the Treasurer, by warrant of the county auditor drawn upon the requisition of the clerk or judge of the court, for deposit in the California Fire and Arson Training Fund, on order of the Controller. At the time of the transmittal, the county auditor shall forward to the Controller, on the form or forms prescribed by the Controller, a record of the imposition, collection, and payments of the fines or forfeitures.

(b) One-half to the county in which the offense was committed for disposition as provided in Section 1463 of the Penal Code.

SEC. 2. Section 13112.2 of the Health and Safety Code is amended to read:

13112.2. All revenue collected pursuant to subdivision (a) of Section 13112.1 shall be deposited in the California Fire and Arson Training Fund and shall be available, when appropriated by the Legislature, for the office of the State Fire Marshal to support fire training.

CHAPTER 334

An act to amend Section 777.1 of the Insurance Code, relating to insurance.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 777.1 of the Insurance Code is amended to read:

777.1. No insurer shall participate in any plan to offer or effect any kind or kinds of insurance or annuities in this state as an inducement to the purchase or rental by the public of any property, real or personal or mixed, or services, without any separate charge to the insured for such insurance, nor shall any agent, broker, or solicitor arrange the sale of any such insurance. The provisions of this article shall not be applicable to insurance written in connection with subscriptions to newspapers of general circulation; nor shall it apply to insurance issued to credit unions or to members of credit unions in connection with the purchase of shares in such a credit union; nor shall it apply to insurance offered as a guarantee of the performance of goods, which insurance is designed to protect the purchasers or users of such goods; nor shall it be applicable to any

title insurance or life or disability insurance written in connection with an indebtedness, the purpose of which insurance is to pay the balance of the indebtedness in the event of the death or disability of the person insured; nor shall it be applicable to any of the provisions of Part 5 (commencing at Section 12140), Division 2 of this code; nor shall it be applicable to insurance provided incidentally to the sale of services if the cost of the insurance to the seller of the services does not exceed the sum of one dollar ($1) per annum for each purchaser of those services.

CHAPTER 335

An act to repeal and add Section 352.1 of the Evidence Code, relating to evidence.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. The Legislature finds and declares that the provisions of Section 352.1 of the Evidence Code have been in continuous effect since that passage of Proposition 8 and this bill is a reaffirmation of that fact.

SEC. 2. Section 352.1 of the Evidence Code is repealed.

SEC. 3. Section 352.1 is added to the Evidence Code, to read:

352.1. In any criminal proceeding under Section 261, Section 264.1, subdivision (d) of Section 286, or subdivision (d) of Section 288a of the Penal Code, or in any criminal proceeding under subdivision (c) of Section 286 or subdivision (c) of Section 288a of the Penal Code in which the defendant is alleged to have compelled the participation of the victim by force, violence, duress, menace, or threat of great bodily harm, the district attorney may, upon written motion with notice to the defendant or the defendant's attorney, if he or she is represented by an attorney, within a reasonable time prior to any hearing, move to exclude from evidence the current address and telephone number of any victim at such hearing.

The court may order that evidence of the victim's current address and telephone number be excluded from any hearings conducted pursuant to such criminal proceeding if the court finds that the probative value of such evidence is outweighed by the creation of substantial danger to the victim.

Nothing in this section shall abridge or limit the defendant's right to discover or investigate such information.

CHAPTER 336

An act to amend Section 39361 of the Education Code, relating to schools.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 39361 of the Education Code is amended to read:

39361. (a) The governing board of any school district that has, by majority vote, established a standard rate or rates for the lease pursuant to this article of its real property may, by majority vote, delegate to such officer or employee as the governing board may designate, the power to enter into any lease, for and on behalf of the district, of any real property of the school district, with respect to which real property either the district has received only one sealed proposal that conforms with the existing standard rate or rates, from a responsible bidder, and no oral bid that would meet the requirements of Section 39372, or the lease is to be entered into pursuant to Section 39379.

(b) The governing board of any school district may, by majority vote, delegate to such officer or employee as the governing board may designate, the power to enter into any lease, permit, or agreement for the use by the district of buildings or other facilities if the use is to be granted to the district without charge.

CHAPTER 337

An act to add Article 8 (commencing with Section 53150) to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, relating to emergency response.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Article 8 (commencing with Section 53150) is added to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 8. Costs of Emergency Response

53150. Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic

beverage and any drug, whose negligent operation of a motor vehicle caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

53151. Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of any boat or vessel caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

53152. Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a civil aircraft caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes an incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

53153. For purposes of this article, a person is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, when as a result of drinking an alcoholic beverage or using a drug, or both, his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle, boat or vessel, or aircraft with the caution characteristic of a sober person of ordinary prudence under the same or similar circumstances. For purposes of this article, the presumptions described in Sections 23152 and 23155 of the Vehicle Code shall apply.

53154. The expense of an emergency response shall be a charge against the person liable for expenses under this article. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied, except that liability for the expenses provided for in this article shall not be insurable and no insurance policy shall provide or pay for the expenses.

53155. In no event shall a person's liability under this article for the expense of an emergency response exceed five hundred dollars ($500) for a particular incident.

53156. As used in this article:

(a) "Expense of an emergency response" means reasonable costs incurred by a public agency in reasonably making an appropriate

emergency response to the incident, including the costs of providing police, firefighting, rescue, and emergency medical services at the scene of the incident, but shall only include those costs directly arising because of the response to the particular incident.

(b) "Public agency" means the state and any city, county, municipal corporation, district, or public authority located, in whole or in part, within this state which provides or may provide firefighting, police, ambulance, medical, or other emergency services.

(c) "Intentionally wrongful conduct" means conduct intended to injure another person or property.

53157. Any testimony, admission, or any other statement made by the defendant in any proceeding brought pursuant to this article, or any evidence derived from the testimony, admission, or other statement, shall not be admitted or otherwise used in any criminal proceeding arising out of the same incident.

53158. It is not the intent of the Legislature, in enacting this article, to occupy the field of recovery of the expense of an emergency response by a public agency, nor is it the intent of the Legislature to preempt local regulations or to otherwise limit the remedies available to any public agency to recover the expenses of an emergency response to any incident not involving persons who operate a motor vehicle, boat or vessel, or civil aircraft while under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug.

CHAPTER 338

An act to amend Sections 65357 and 65456 of the Government Code, and to amend Section 21152 of the Public Resources Code, relating to land use regulation.

[Approved by Governor July 28, 1985. Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 65357 of the Government Code is amended to read:

65357. (a) A copy of the adopted general plan or amendment to the general plan shall be sent to all public entities specified in Section 65352 and any other public entities that submitted comments on the proposed general plan or amendment to the general plan during its preparation. Failure to send the adopted general plan or amendment as provided in this section shall not affect its validity in any manner.

(b) Copies of the documents adopting or amending the general plan, including the diagrams and text, shall be made available to the general public as follows:

(1) Within one working day following the date of adoption, the clerk of the legislative body shall make the documents adopting or amending the plan, including the diagrams and text, available to the public for inspection.

(2) Within two working days after receipt of a request for a copy of the adopted documents adopting or amending the plan, including the diagrams and text, accompanied by payment for the reasonable cost of copying, the clerk shall furnish the requested copy to the person making the request.

(c) A city or county may charge a fee for a copy of the general plan or amendments to the general plan that is reasonably related to the cost of providing that document.

SEC. 2. Section 65456 of the Government Code is amended to read:

65456. (a) The legislative body, after adopting a specific plan, may impose a specific plan fee upon persons seeking governmental approvals which are required to be consistent with the specific plan. The fees shall be established so that, in the aggregate, they defray but as estimated do not exceed, the cost of preparation, adoption, and administration of the specific plan, including costs incurred pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. As nearly as can be estimated, the fee charged shall be a prorated amount in accordance with the applicant's relative benefit derived from the specific plan. It is the intent of the Legislature in providing for such fees to charge persons who benefit from specific plans for the costs of developing those specific plans which result in savings to them by reducing the cost of documenting environmental consequences and advocating changed land uses which may be authorized pursuant to the specific plan.

(b) Notwithstanding Section 54992, a city or county may require a person who requests adoption or amendment of a specific plan to deposit with the planning agency an amount equal to the estimated cost of preparing the plan or amendment prior to its preparation by the planning agency.

(c) Copies of the documents adopting or amending the specific plan, including the diagrams and text, shall be made available to local agencies, and shall be made available to the general public as follows:

(1) Within one working day following the date of adoption, the clerk of the legislative body shall make the documents adopting or amending the plan, including the diagrams and text, available to the public for inspection.

(2) Within two working days after receipt of a request for a copy of the documents adopting or amending the plan, including the diagrams and text, accompanied by payment for the reasonable cost of copying, the clerk shall furnish the requested copy to the person making the request.

(d) A city or county may charge a fee for a copy of a specific plan or amendments to a specific plan in an amount that is reasonably related to the cost of providing that document.

SEC. 3. Section 21152 of the Public Resources Code is amended to read:

21152. (a) Whenever a local agency approves or determines to carry out a project which is subject to this division, it shall file notice of the approval or the determination within five working days after the approval or determination becomes final with the county clerk of the county, or counties, in which the project will be located. The notice shall indicate the determination of the local agency whether the project will, or will not, have a significant effect on the environment and shall indicate whether an environmental impact report has been prepared pursuant to this division. The notice shall also include certification that the final environmental impact report with comments and responses, if one was prepared, is available to the general public.

(b) Whenever a local agency determines that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21085 or 21172, and it approves or determines to carry out the project, it, or the person specified in subdivision (b) or (c) of Section 21065, may file notice of the determination with the county clerk of the county, or counties, in which the project will be located. Any notice filed pursuant to this subdivision by a person specified in subdivision (b) or (c) of Section 21065 shall have a certificate of determination attached to it issued by the local agency responsible for making the determination that a project is not subject to this division pursuant to subdivision (b) of Section 21080 or pursuant to Section 21085 or 21172. The certificate of determination may be in the form of a certified copy of an existing document or record of the local agency.

(c) All notices filed pursuant to this section shall be available for public inspection, and shall be posted on a weekly basis in the office of the county clerk. Each notice shall remain posted for a period of 30 days, and thereafter, the clerk shall return to the local agency the notice with a notation of the period it was posted. The local agency shall retain the notice for not less than nine months.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

CHAPTER 339

An act to amend Section 46111, as amended by Section 1 of Chapter 246 of the Statutes of 1983, and to amend Section 46111, as added by Section 2 of Chapter 246 of the Statutes of 1983, of the Education Code, relating to schools.

[Approved by Governor July 28, 1985. Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 46111 of the Education Code, as amended by Section 1 of Chapter 246 of the Statutes of 1983, is amended to read:

46111. No pupil in a kindergarten shall be kept in school in any day more than four hours exclusive of recesses.

This section shall not apply to the Pasadena Unified School District, the San Bernardino Unified School District, or counties of the third class as determined pursuant to Section 28024 of the Government Code, as it read on January 1, 1977.

This section shall remain in effect only until January 1, 1990, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends such date.

SEC. 2. Section 46111 of the Education Code, as added by Section 2 of Chapter 246 of the Statutes of 1983, is amended to read:

46111. No pupil in a kindergarten shall be kept in school in any day more than four hours exclusive of recesses.

This section shall not apply to the Pasadena Unified School District or counties of the third class as determined pursuant to Section 28024 of the Government Code, as it read on January 1, 1977.

This section shall become operative January 1, 1990.

SEC. 3. Due to the unique circumstances concerning the kindergarten program of the San Bernardino Unified School District and the school district's efforts to desegregate and integrate, 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 340

An act to add Section 36064 to the Water Code, relating to California water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 36064 is added to the Water Code, to read:

36064. Bonds may be refunded by defeasance or call for redemption, subject to all of the following requirements:

(a) Notwithstanding Sections 53557 and 53585 of the Government Code, the proceeds of the sale of refunding bonds deposited in escrow or trust may be invested or reinvested in any combination of

federal securities and securities permitted by subdivisions (c) and (d) of Section 53635 of the Government Code, except that investment and reinvestment of the proceeds shall not be permitted in securities issued by the district or on behalf of any of its improvement districts. The ratings of any securities permitted by subdivision (d) of Section 53635 of the Government Code in which the escrow or trust is invested or reinvested, or debt service insurance or other credit enhancement with respect to those securities, or any combination thereof, shall produce a rating on those securities when acquired equivalent to the highest long-term debt rating category of either Moody's Investors Service, Inc., or Standard and Poor's Corporation. Notwithstanding Section 53584 of the Government Code, the securities may be acquired from the issuer thereof or any other source approved by the board.

(b) The escrow or trust shall be established in an amount sufficient to pay when due the principal of, redemption premium, if any, and interest on, the bonds being refunded. Securities in the escrow or trust may be exchanged or sold and the proceeds used to purchase other securities only when the escrow agent or trustee holding the fund deems the exchange or sale necessary to maintain the ability to pay when due the principal of, redemption premium, if any, and interest on, the bonds being refunded. If the escrow or trust becomes insufficient to pay the principal, redemption premium, if any, and interest when due, the board may, to the extent of the insufficiency, augment the escrow or trust from assessments or charges, or both, fixed and collected for that purpose, notwithstanding Section 53561 of the Government Code and Section 36063 of this code.

(c) Notwithstanding Section 53583 of the Government Code, the bonds being refunded need not be called and paid at the first or any subsequent date on which the bonds may legally be called, if the board determines that to do so would be consistent with prudent management of the district's fiscal affairs.

SEC. 2. The Legislature finds and declares that there are special financial circumstances unique to the Irvine Ranch Water District and the Moulton-Niguel Water District which make the provisions of this act necessary and that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable.

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

Increased cost savings are achievable in refunding bonds of the Irvine Ranch Water District's improvement districts if authority is given to those districts to invest refunding bond proceeds in certain governmental securities in addition to those currently permitted, and if those districts are relieved of the requirement of calling the bonds being refunded at the first available call date. To afford the

district the earliest possible opportunity to lower the financial burden of debt service for the ratepayers and taxpayers, it is necessary that this act take effect immediately.

CHAPTER 341

An act to amend Section 5473.10 of the Health and Safety Code, relating to sanitation and sewerage systems.

[Approved by Governor July 28, 1985. Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 5473.10 of the Health and Safety Code is amended to read:

5473.10. The entity may provide for a basic penalty of not more than 10 percent for nonpayment of the charges within the time and in the manner prescribed by it, and in addition may provide for a penalty of not exceeding 1 and one-half percent per month for nonpayment of the charges and basic penalty. It may provide for collection of the penalties herein provided for.

CHAPTER 342

An act to add Sections 44548 and 44549 to the Health and Safety Code, relating to pollution control facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. The Legislature finds and declares that small businesses have had difficulty establishing adequate security for bonds issued by the California Pollution Control Financing Authority on their behalf, and that in order to increase opportunities for financing for small businesses, as directed by the Legislature in Section 44537.5 of the Health and Safety Code, it is appropriate for the authority to establish one or more common reserve funds to help provide reasonable security for its bonds and to help make the authority's services available to small businesses which are presently unable to use them. The Legislature hereby approves and ratifies the actions of the authority toward establishment of a common reserve fund program undertaken after December 16, 1983, and enacts this act to clarify the authority's powers and to provide the authority the

necessary flexibility to fully implement this program.

SEC. 2. Section 44548 is added to the Health and Safety Code, to read:

44548. (a) Subject to any prior contractual obligations to any of its bondholders, the authority may establish one or more common reserve funds for any or all of its bonds in order to assist small businesses to achieve financing of pollution control facilities. For the purpose of establishing and maintaining common reserve funds as it deems necessary or desirable to secure its bonds or any issuance thereof, the authority, pursuant to its contracts with participating parties, may levy fees or other charges on, or require deposits from, participating parties receiving financing for a project under this division. The total amount of these fees, charges, and deposits with respect to a single issue of bonds shall not exceed 3 percent of the principal amount of that issue of bonds. Prior to levying any fees or charges or requiring deposits, the authority shall adopt regulations for the operation of the common reserve funds, the amounts and any payment schedule for the fees, charges, or deposits, eligibility standards for small businesses desiring to use or benefit from the common reserve funds, and any other matters the authority deems necessary for the establishment and maintenance of common reserve funds. The regulations may provide for differential fees from participating parties based upon the size of a project financed by the authority or other factors deemed relevant by the authority, and the regulations may restrict any benefits to those eligible small businesses as may be specified in the regulations. The authority may transfer any funds available to it or set aside for its administrative expenses to any common reserve fund established under this section.

(b) The liability of any common reserve fund with respect to any single issue of bonds of the authority may not exceed one million dollars ($1,000,000).

(c) The forms of financial assistance which the authority may provide under this section include, but are not limited to, payments to reduce, but not eliminate, the interest rate on loans; payments of part or all of the cost of acquiring letters of credit, insurance, guarantees, or other forms of credit support; and payment of part or all of the authority's expenses in issuing revenue bonds. The authority may pledge any common reserve fund, not to exceed the limit specified in subdivision (b), to repay the principal of, or interest or premium on, any issue of bonds of the authority. The authority may contract with qualified financial institutions including, but not limited to, banks, investment and mortgage bankers, insurance companies, sureties, and guarantors, to provide any necessary assistance in the granting of credit for these purposes.

(d) Each common reserve fund established pursuant to this section shall be deposited in a special account which the Controller shall create. Notwithstanding any other provision of law, and subject to any requirements of federal tax law or regulations relative to maintaining the tax exempt status of the obligations of the authority,

all interest or other gains earned by investment or deposit of money in the special account pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code or pursuant to any other provision of law shall be credited to, and deposited in, the account.

SEC. 3. Section 44549 is added to the Health and Safety Code, to read:

44549. Any funds of the authority, including proceeds from the sale of bonds or notes issued after the effective date of this section, money set aside for the authority's administrative expenses, and common reserve funds created under Section 44548, may be invested in any obligations of any state or local government meeting the requirements of subdivision (a) of Section 103 of the Internal Revenue Code of 1954 (26 U.S.C. Sec. 103 (a)) including mutual funds, trusts, and similar instruments representing a pool of obligations. The Treasurer may adopt regulations providing appropriate investment standards for these investments. If the Treasurer deems it necessary to assure compliance with federal tax laws or regulations, the authority may, notwithstanding any other provision of law, deposit funds received as fees from the issuance of its obligations, including common reserve funds, with a bank or trust company acting on behalf of the authority.

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:

Many small businesses require immediate assistance by the California Pollution Control Authority to finance needed pollution control facilities because of impending environmental deadlines. In order to implement the common reserve fund program created by this act as soon as possible to assist qualifying small businesses, and to ensure that investments of funds of the authority comply with new provisions of federal tax law, it is necessary that this act take effect immediately.

CHAPTER 343

An act to amend Sections 62707 and 62711 of, and to add Section 62074.5 to, the Food and Agricultural Code, relating to market milk.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 62074.5 is added to the Food and Agricultural Code, to read:

62074.5. A stabilization and marketing plan may contain

provisions necessary to encourage the availability of market milk for those usages for which class 1 and class 2 milk is mandatory.

SEC. 2. Section 62707 of the Food and Agricultural Code is amended to read:

62707. The formulation committee shall make recommendations to the director for inclusion in the pooling plan, and the director shall include in the pooling plan, all of the following:

(a) The establishment of one or more pools throughout the state.

(b) (1) The base period to be used in determining the production and class 1 usage bases of each producer directly affected by the pooling plan. The base period shall, at the producer's option, be his or her fluid milk production and usage in the pool area during the calendar year 1967 on an average daily basis or his or her production and usage in the pool area during the last six months of 1966 on an average daily basis.

(2) As to a producer south and east of San Gorgonio Pass, his or her production base may, at his or her option, be four times his or her production in the months of December, 1966, and January and February, 1967.

(3) If a producer, during any base period, had a valid contract with a distributor, or as a member of a cooperative association had an allocation, which provided that the distributor or cooperative association was required to accept a larger amount of fluid milk from the producer than the producer actually produced during the period, on proof satisfactory to the director of the contract or allocation, the producer may, at his or her option, have the amount specified in the contract or allocation established as his or her production base.

(c) The establishment of a class 1 usage for each producer, which shall be the amount of his or her production of fluid milk accounted for as class 1, and any fluid milk sold for use as class 1 to a United States military installation but which was not accounted for as class 1.

(d) The allocation to each producer within any pool of a pool quota, which, initially, shall be 110 percent of that producer's class 1 usage, as determined in subdivision (c).

(e) (1) The determination of new class 1 usage and the allocation of pool quota based thereon in a manner consistent with effectuating the purposes of this chapter.

(2) All producers who have not reached the equalization point shall share in the allocation of pool quota on the basis of a formula which gives substantial weight to each producer's production base, but which, at the same time, allocates a larger percentage to hardship cases and low class 1 usage producers.

(3) The allocations shall be made on the basis of each individual producer, with each cooperative association considered as a single producer. The cooperative associations of producers shall reassign any new quota to their own members subject to the provisions of Section 62710.

(4) Annually, within no more than four months after August 31 of each year, the pool quota shall be adjusted by each component to reflect any additional pool quota. Any increase in pool quota shall be determined from the amount of new class 1 solids not fat usage which developed during the preceding annual period which exceeded the previous highest identical annual period since the enactment of this chapter.

There shall be no downward adjustment of pool quota below the quota initially established pursuant to this chapter.

(f) The establishment of production bases and pool quotas for new fluid milk producers who wish to enter the pooling plan after the effective date of the plan. The recommendations of the committee shall be reasonably equitable to both the new producers and to participating producers and consistent with effectuating the purposes of this chapter.

(g) The transfer of production bases and pool quotas from one fluid milk producer to another under conditions so designed as to prevent abuses in the transfers and to avoid the development of excessive values for the bases and quotas.

(h) Notwithstanding Section 62711, any provision which may be necessary to encourage the availability of market milk for those usages for which class 1 and class 2 milk is mandatory.

(i) Any and all other matters necessary and desirable to effectuate the provisions of this chapter.

The recommendations of the formulation committee and the pooling plan may provide exceptions from the plan's general application for individual cases of hardship.

SEC. 3. Section 62711 of the Food and Agricultural Code is amended to read:

62711. Except as provided in subdivision (h) of Section 62707, each producer shall be paid the highest usage for that amount of his or her fluid milk production which is equal to his or her pool quota and shall be paid the next highest usage for the difference between his or her pool quota and his or her production base under the production pool designated pursuant to this chapter and the lowest usage for all milk produced in excess of his or her production base under the overproduction pool designated pursuant to this chapter.

CHAPTER 344

An act to amend Section 40070 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 40070 of the Education Code is amended to read:

40070. The State Department of Education shall develop or approve a course for the training of schoolbus, school pupil activity bus, and farm labor vehicle drivers that will provide them with the skills and knowledge necessary to prepare them for an examination for certification pursuant to Sections 12517 and 12519 of the Vehicle Code. The department shall seek the advice and assistance of the Department of Motor Vehicles and the Department of the California Highway Patrol in developing or approving such a course.

The department shall train or approve the necessary instructional personnel to conduct the course. For schoolbus and school pupil activity bus training, the department shall provide for and approve the course outline and lesson plans used in the course. For farm labor vehicle training, the department shall approve the course outline and lesson plans used in the course.

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 require the State Department of Education to provide schoolbus, school pupil activity bus, and farm labor vehicle driver training programs at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 345

An act to amend Sections 13434, 13470, 13473, 13490, 13532, 13534, 13536, and 13539 of the Business and Professions Code, relating to petroleum products.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 13434 of the Business and Professions Code is amended to read:

13434. The moneys which are received by the director pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund and shall be used only for the administration and enforcement of this chapter and Chapter 15 (commencing with Section 13700).

SEC. 2. Section 13470 of the Business and Professions Code is amended to read:

13470. No person shall sell at retail to the general public, any

motor fuel from any place of business in this state unless there is displayed on the dispensing apparatus in a conspicuous place at least one sign or price indicator showing the actual total price per gallon or liter of all motor fuel sold therefrom. The actual total price per gallon, or liter, shall include fuel taxes and all sales taxes.

When a discount for cash is offered from a dispenser computing only at the credit price, at least one sign or label shall be conspicuously displayed on the dispenser indicating that the dispenser is computing at the credit price and indicating the amount of the discount per gallon or liter in letters and numerals not less than one-half inch high.

If motor fuel is sold by the liter, the word "liter" shall be conspicuously displayed on the side of the dispensing apparatus from which service can be made.

SEC. 3. Section 13473 of the Business and Professions Code is amended to read:

13473. Unless otherwise provided, all letters, figures, or numerals on each sign required by this article, however affixed, marked, imprinted, placed, or embossed, shall be at least three-fourths of an inch in height and all lines or marks used in the making or forming of all the letters, figures, or numerals which are a part of the sign shall be at least one-eighth of an inch in width.

SEC. 4. Section 13490 of the Business and Professions Code is amended to read:

13490. The use of pumps or other devices which are capable of withdrawing gasoline from one tank and motor oil, or a premixture of gasoline and motor oil in a known ratio, from another tank, and dispensing them as a single combined product, or of withdrawing gasoline alone from the tank containing gasoline and of withdrawing a premixture of gasoline and motor oil alone from the tank containing a premixture of gasoline and motor oil shall be authorized when the department determines that all the following conditions exist:

(a) The device mechanism accurately measures the quantities being simultaneously withdrawn for dispensing as a combined product from each of the two tanks when the combined product is dispensed, the quantity being dispensed from the gasoline tank when gasoline alone is dispensed, or the quantity being dispensed from the tank containing a premixture of gasoline and motor oil when the premixture alone is dispensed.

(b) The device mechanism accurately and visibly records and displays: (1) the ratio of gasoline to motor oil or premixture, the quantity of each ingredient being dispensed, the price per gallon or liter for the gasoline being dispensed, and the price per quart or liter for any motor oil or premixture being dispensed or (2) the ratio of gasoline to motor oil or premixture and the price per gallon or liter for the product being dispensed.

(c) The device mechanism prevents the changing of the ratio of gasoline to motor oil or premixture during dispensing.

The provisions of this section shall supersede Sections 13442, 13443, 13480, 13483, 13486, 13487, 13488, and 13580 to the extent necessary to authorize the operation of the above-described blending type of pump connected to two tanks, one containing motor oil, or a premixture of motor oil and gasoline in a known ratio, and the other gasoline, provided that the motor oil shall in its separate state meet the specifications for motor oil as required by Section 13460 and that the gasoline shall in its separate state meet the specifications for gasoline as required by Section 13440.

SEC. 5. Section 13532 of the Business and Professions Code is amended to read:

13532. (a) It is unlawful for any person to display any advertising medium which indicates the price of motor fuel unless the advertising medium displays all of the following:

(1) The price per gallon or liter, including all taxes, in numerals, and fractions when applicable, not less than six inches in height and of uniform size and color. For the purpose of this article, fractions are considered one numeral.

(2) The trademark or brand of the motor fuel in letters, figures, or numerals not less than one-third the size of the numerals designating the price.

(3) The word "gasoline" or the name of other motor fuel in letters not less than one-third the size of the numerals designating the price, but these words need not be more than four inches in height.

(4) The grade designation of the motor fuel in letters or numerals not less than one-sixth the size of the numerals designating the price, but this designation need not be more than four inches in height.

(5) If motor fuel prices are advertised by the liter, the word "liter" shall be displayed on the advertising medium in letters not less than one-third the size of the numerals designating the price.

(b) (1) It is unlawful for any person offering for sale any motor fuel to display any advertising medium with phraseology indicating a discount or reduced price unless there is displayed at the same location an advertising medium which complies with this article and which shows the price or prices per gallon or liter from which the discount or price reduction will be taken and the amount of discount or price reduction per gallon or liter. Words, with letters not less than one-third the size of the price numerals, shall be used to explain the price or prices from which the discount or price reduction is to be taken and the conditions of the discount or price reduction. The words shall clearly indicate that the discount or price reduction is to be taken from the advertised prices. The height of the numerals indicating the amount of the discount or price reduction shall not exceed the height of the numerals in the advertised price.

(2) Any limitations under which the discount or price reduction is offered shall be explained in words whose letters are not less than one-third the size of the numerals indicating the prices.

(3) There shall be available for each customer's reference, a chart showing the amount of discount for each type unit being sold

(gallon/liter) or fraction thereof in one cent ($0.01) increments, or the retail dispensers used to dispense fuel at the discount price shall be set to compute the total sale at the discounted price per gallon or liter and shall be clearly labeled "Includes Cash Discount" in letters not less than one inch in height.

(4) For purposes of this subdivision, the motor fuel shall be sold in the same unit of measure (e.g., gallons or liters) in which the discount and the price from which the discount is taken are advertised.

(c) In the event that the same grade of motor fuel is sold at different prices from any single place of business, it is unlawful for any person to display any advertising medium which advertises a price of a grade of motor fuel unless the advertising medium advertises in numerals of equal size each of the higher prices, including all taxes for which the grade is sold or offered for sale, and unless the advertising medium explains the conditions, and any limitations, under which that grade is sold or offered for sale at different prices. The words of explanation shall be clearly shown in letters at least one-third the size of the numerals indicating the prices. The different prices at which the same grade of motor fuel is sold or offered for sale shall be advertised in the same unit of measure (either price per gallon or price per liter) as permitted or required by law.

(d) Nothing in this section shall be construed to prohibit any person who has posted or displayed any sign or advertising medium in conformity with the requirements of this chapter from displaying any additional signs or advertising media that state the amount of the discount per gallon or liter or the price of one or more brands or grades of motor fuel sold or offered for sale at the premises, provided that the conditions of the discount or price of the brand or grade of motor fuel are included in the additional sign or advertising media in letters at least one-third the size of the numerals indicating the discount or prices.

SEC. 6. Section 13534 of the Business and Professions Code is amended to read:

13534. Except as provided in subdivisions (b), (c), and (d) of Section 13532, the advertising medium referred to in this article shall not contain any other advertising matter whatsoever, except (1) words of description of the products sold or offered for sale, (2) the method of sale, such as "self serve," "full serve," or words of similar meaning, (3) words describing the type of additional service offered at the place of business, such as food market, car wash, tuneup, or similar words, but not the price, and (4) the registered trademark or trade name associated with additional service referred to in (3). Any letters, figures, or numerals used on the advertising medium as permitted by (1) shall not be larger than the numerals used to indicate the price. Any letters, figures, or numerals used on the advertising medium as permitted by (2) shall not be less than one-third the size of the numerals used to indicate the price.

SEC. 7. Section 13536 of the Business and Professions Code is amended to read:

13536. All letters, words, figures, or numerals which are part of the advertising media referred to in this article shall have a heavy type face or stroke, shall be clearly visible, and of a color or tint that will contrast the letters, words, figures, or numerals with the background of the advertising media. The height of the letters, figures, and numerals, except the letter "l" and numeral one, shall not be more than twice the width.

SEC. 8. Section 13539 of the Business and Professions Code is amended to read:

13539. It is unlawful for any person to display any sign or other designating mark on or near any place of business of the person describing or designating a brand, trademark, or trade name of any product which comes under the provisions of this chapter, not actually sold or offered for sale at the place of business.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 346

An act to add Section 29203.7 to the Elections Code, relating to voter registration.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 29203.7 is added to the Elections Code, to read:

29203.7. No affidavit of registration or voter registration card shall contain, and no person other than the registrant shall write on or affix, or cause to be written on or affixed, thereto, any statement urging or indicating support or opposition to any candidate or measure.

Any person who violates this section is guilty of a misdemeanor.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 347

An act to amend the heading of Chapter 26 (commencing with Section 24500) of Part 13 of, to amend Sections 24500 and 24502 of, and to add Section 24615 to, the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor July 28, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. The heading of Chapter 26 (commencing with Section 24500) of Part 13 of the Education Code is amended to read:

CHAPTER 26. ESTIMATED ALLOWANCES

SEC. 2. Section 24500 of the Education Code is amended to read:

24500. Whenever the system determines that payments in the correct amount due cannot be made when payable because required information or documentation is not yet on file in the system, payment of estimated allowances based on preliminary information in the possession of the system, may be made; the system may present claims therefor; and the State Controller shall draw warrants in payment of the claims.

SEC. 3. Section 24502 of the Education Code is amended to read:

24502. If any estimated allowances are more or less than the correct amount due, the difference between the correct amount and the estimated allowance shall be adjusted in subsequent payments or the State Controller may state an account with the retirant, disabilitant, or beneficiary, pursuant to Section 12419 of the Government Code.

SEC. 4. Section 24615 is added to the Education Code, to read:

24615. The board may establish a special account and procedures to pay allowances and death payments on an emergency basis. Disbursements under the special account shall be by checks issued by the system and subject to the auditing requirements of the Controller. Payments under the special account shall be deducted from allowances and death benefits otherwise due.

CHAPTER 348

An act to add and repeal Section 3247.5 to the Civil Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 3247.5 is added to the Civil Code, to read:

3247.5. The requirement of this chapter that a payment bond be filed and approved before any claim in favor of the original contractor arising under the contract shall be audited, allowed, or paid by the public entity awarding the contract or any officer thereof, shall not be applicable to contracts entered into by any public district or political subdivision of the state for disaster damage repair or restoration work on or after November 30, 1982, and performed on or before January 1, 1985, if the failure to file the payment bond was the result of inadvertence or excusable neglect.

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 enacted before January 1, 1987, deletes or extends that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to eliminate uncertainties regarding payments for work already accomplished pursuant to contract, and to facilitate payments in a timely manner, it is necessary that this act go into effect immediately.

CHAPTER 349

An act to amend the heading of Part 7.2 immediately preceding Section 15430 of, to amend Sections 15430, 15431, 15432, and 15439 of, and to add Section 15453.7 to, the Government Code, relating to the financing of health care facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. The heading of Part 7.2, immediately preceding Section 15430 of the Government Code, is amended to read:

PART 7.2. HEALTH FACILITIES FINANCING AUTHORITY ACT

SEC. 2. Section 15430 of the Government Code is amended to read:

15430. This chapter shall be known and may be cited as the

California Health Facilities Financing Authority Act.

SEC. 3. Section 15431 of the Government Code is amended to read:

15431. The California Health Facilities Authority is continued in state government as the California Health Facilities Financing Authority. The authority constitutes a public instrumentality, and the exercise by the authority of the powers conferred by this part shall be deemed and held to be the performance of an essential public function.

SEC. 4. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means the California Health Facilities Financing Authority Act.

(b) "Authority" means the California Health Facilities Financing Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion thereof financed under the provisions of this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period not to exceed one year following completion of construction, as determined by the authority, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "Health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities and community clinics, as defined in paragraph (6), and includes the following types:

(1) A general acute care hospital which is a health facility having a duly constituted governing body with overall administrative and

professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility which is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility which is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A community clinic which is a clinic operated by a tax-exempt nonprofit corporation which is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, which may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic. However, the licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.

(7) An adult day health center which is a facility, as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code,

(without regard to whether funding is provided for the facility under that section).

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

"Health facility" shall include a clinic which is described in subdivision (*l*) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses' or interns' residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

SEC. 5. Section 15439 of the Government code is amended to read:

15439. (a) The California Health Facilities Authority Fund is continued in existence in the State Treasury as the California Health Facilities Financing Authority Fund. All money in the fund is hereby continuously appropriated to the authority for carrying out the purposes of this division. The authority may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this part, and, for that purpose or as necessary or convenient to the accomplishment of any other purpose of the authority, may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this part from whatever source shall be deposited in the

fund.

(b) Subject to the priorities which may be created by the pledge of particular moneys in the fund to secure any issuance of bonds of the authority, and subject further to any reasonable costs which may be incurred by the authority in administering the program authorized by this division, all moneys in the fund derived from any source shall be held in trust for the security and payment of bonds of the authority and shall not be used or pledged for any other purpose so long as such bonds are outstanding and unpaid. However, nothing in this section shall limit the power of the authority to make loans with the proceeds of bonds in accordance with the terms of the resolution authorizing the same.

(c) Pursuant to any agreements with the holders of particular bonds pledging any particular assets, revenues, or moneys, the authority may create separate accounts in the fund to manage assets, revenues, or moneys in the manner set forth in the agreements.

(d) The authority may, from time to time, direct the State Treasurer to invest moneys in the fund which are not required for its current needs, including proceeds from the sale of any bonds, in the eligible securities specified in Section 16430 as the agency shall designate. The authority may direct the State Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4. All interest or other increment resulting from an investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4, excepting the Surplus Money Investment Fund.

(e) All moneys accruing to the authority from whatever source shall be deposited in the fund.

SEC. 6. Section 15453.7 is added to the Government Code, to read:

15453.7. Notwithstanding Section 15453 or 15453.5, the total amount of bonds which may be outstanding at any one time is hereby increased by an amount not exceeding nine hundred sixty-five million dollars ($965,000,000). Bonds for which moneys or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon have been deposited in trust shall not be deemed outstanding for purposes of this section.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

It is estimated that the total amount of revenue bonds authorized to be outstanding under the existing California Health Facilities

Authority Act will be issued prior to July 1, 1985. In order to increase the amount of revenue bonds authorized to be outstanding at any one time as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 350

An act to amend Section 4676 of, to repeal and add Section 4675 of, and to repeal Section 4677 of, the Public Resources Code, relating to lands.

[Approved by Governor July 28, 1985. Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 4675 of the Public Resources Code is repealed.

SEC. 2. Section 4675 is added to the Public Resources Code, to read:

4675. It is in the public interest and to the benefit of the state that watershed lands are rehabilitated to conserve water and soil and to prevent destructive floods.

In furtherance of this policy, the department may conduct surveys and studies, formulate plans, and perform all acts incidental to establishing and maintaining vegetative cover on watershed lands and maintaining watercourse channels free of natural impediments or destructive materials during peak flood flows, including any work necessary to accomplish these purposes.

With the approval of the Director of General Services, the department may enter into contracts with any federal agency or any person, as defined in Section 4101, for any purpose authorized by this section.

The department, or any federal agency or person which has entered into a contract with the department for any purpose authorized by this section, may, in accomplishing the purpose, enter upon, perform required work upon, and inspect any lands.

SEC. 3. Section 4676 of the Public Resources Code is amended to read:

4676. (a) The director may authorize any work for any purpose authorized by Section 4675 as an exercise of the director's emergency powers and may request the assistance of any federal agency or person in connection with that work if any of the following conditions exist:

(1) Natural vegetative cover has been denuded to the extent that precipitation may create floods and serious soil depletion and erosion.

(2) The denuded area is of a size, and the topography and soil

characteristics of such a nature, that soil loss and floods will have a significant effect upon watershed values and the public health, safety, or welfare.

(3) Vegetative cover will not be restored by natural means in time to effectively prevent undue erosion and flood runoff.

(4) Woody plants and debris within or adjacent to the watercourse channels in or directly downstream from the denuded areas will significantly impede flood runoff or accelerate channel scour. Prior to commencing any work in response to this condition, the director shall advise the Director of Fish and Game of the proposed work.

(b) The expenditure of state funds for emergency work authorized under subdivision (a) shall be limited to lands classified as a state responsibility area pursuant to Article 3 (commencing with Section 4125) of Chapter 1. Any contract for emergency work affecting both a state responsibility area and nonclassified lands shall require that the cost of the work be shared proportionately between the department and the other responsible federal agency or person, as defined in Section 4101.

SEC. 4. Section 4677 of the Public Resources Code is repealed.

CHAPTER 351

An act to amend Section 3097 of the Labor Code, relating to employment.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 3097 of the Labor Code is amended to read:

3097. The Department of Industrial Relations, Division of Apprenticeship Standards, may cooperate in the provision of, or provide, services to the Employment Development Department, and to service delivery areas, as designated pursuant to the Job Training Partnership Act (P.L. 97-300, and Division 8 commencing with Section 15000 of the Unemployment Insurance Code). The Department of Industrial Relations, Division of Apprenticeship Standards may enter into any agreements as may be necessary for this purpose.

The Division of Apprenticeship Standards shall exert maximum effort to persuade sponsors of its registered, nonfederally funded, voluntary apprenticeship and on-the-job training programs to accept to the maximum possible extent the eligible persons as described in the Job Training Partnership Act (P.L. 97-300) and Division 8 (commencing with Section 15000) of the Unemployment Insurance Code.

CHAPTER 352

An act to amend Section 4789.3 of the Public Resources Code, relating to forest and rangeland resources.

[Approved by Governor July 28, 1985 Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 4789.3 of the Public Resources Code is amended to read:

4789.3. (a) Under policy guidance from the board and in consultation with the Secretary of the Resources Agency, the director shall prepare and submit to the board and the Secretary of the Resources Agency, a preliminary forest and rangeland resource assessment and analysis not later than July 1, 1979, and shall present a full and updated assessment by January 1, 1987, and by January 1 of each fifth year thereafter. The assessment and analysis shall recognize distinct differences in ownership and management of forest and rangeland resources in California between the various public and the various private owners and shall include, but not be limited to, the following:

(1) An assessment and analysis of the supply and availability of the various present and potential forest and rangeland resources of the state, including limits to those supplies imposed by natural site conditions, such as slope stability and erosion hazard, or by governmental restriction, such as special zoning. Among resource potentials to be evaluated are opportunities to accomplish any of the following:

(A) Improve and rehabilitate the understocked timberland in California and to more fully utilize the productive potential for growing and harvesting timber.

(B) Improve wood fiber utilization and wood product recycling.

(C) Salvage trees infested with insects and diseases on timberland.

(D) Improve the management of forest wildlife and wildlife habitat within the state.

(E) Increase the quantity and quality of recreation available in the state.

(F) Improve and rehabilitate rangeland areas within the state.

(G) Increase the potential to use wood fiber from timberland as an economically viable source of fuel for energy production.

(H) Improve the potential for rangeland forage for domestic livestock production.

(2) An assessment and critique of federal policies with respect to rangeland and timberland. The assessment and critique shall include (A) as to timberlands, a review of the federal government's national forest revenue sharing program administered pursuant to Section

500 of Title 16 of the United States Code, and (B) as to rangelands, a review of grazing fee charges and revenue sharing policies affecting national forest lands administered by the United States Department of Agriculture, Forest Service. The timber sale revenue sharing and grazing fee policies of the Department of the Interior shall also be reviewed. In conducting the review, the director shall consult with the State Board of Equalization, and with local governments and school districts affected by the federal government's revenue sharing programs.

(3) An analysis of present and anticipated demand for various forest and rangeland resources in the state.

(4) A description and evaluation of current state programs and responsibilities in cooperative state-federal forest and rangeland resource programs, and management of state and local public forest, range, and related lands.

(5) A discussion of important policy considerations, laws, regulations, management responsibilities, and other factors expected to influence and significantly affect the use, ownership, and management of forest and rangeland resources.

(6) When assessing various resource potentials which could be obtained from forest lands and rangeland, the director shall include an evaluation of probable direct and indirect economic and environmental benefits and costs, including opportunity costs, associated with realizing those potentials.

(b) In preparing the assessment, the director, under policy guidance of the board, shall solicit the cooperation of, and information collected by, public and private organizations, federal forest and rangeland resource agencies, state agencies concerned with forest and rangeland resources, county planning and taxation agencies, and state-supported forest and rangeland resource research agencies.

(c) For the purpose of assisting the director and the board in preparing the assessment and its revisions, the board may appoint advisory committees it deems necessary. The committees shall consist of individuals with expertise in forest and rangeland resource fields, with particular emphasis on survey and program analysis, and shall include representatives of state agencies concerned with the use of forest and rangeland resources.

(d) In preparation of the assessment, the director shall do all of the following:

(1) Analyze the need to develop and maintain an effective system for the collection, analysis, and display of that data in forms that contribute to the achievement of the purposes of this chapter.

(2) Identify high-priority needs for completing the data base and analytical framework essential to improving the quality of future assessments.

(3) Evaluate the accuracy and completeness of existing data and of steps needed to improve the accuracy and completeness of data for future assessments.

CHAPTER 353

An act to amend Sections 11400 and 11401 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor July 28, 1985. Filed with Secretary of State July 29, 1985]

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

SECTION 1. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services, and the appropriateness of the services provided to the child, in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Exclusive-use home" means a family residence certified by a licensed homefinding agency and issued a certificate of approval by that agency as meeting licensing standards, and used exclusively by that homefinding agency for placements.

(d) "Family home" means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(f) "Group home" means a nondetention privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.

(g) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(h) "Permanency planning hearing" means a hearing conducted

by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(i) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being appointed the child's legal guardian.

(j) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(k) "Relative" means a person who can be a "caretaker relative" of a dependent child under Section 406 of the Social Security Act.

(*l*) "Voluntary placement" means an out-of-home placement of a minor by (1) county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(m) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

(n) "Original placement date" means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

SEC. 2. Section 11401 of the Welfare and Institutions Code is amended to read:

11401. Aid in the form of AFDC-FC shall be provided under this chapter on behalf of any child under the age of 18, except as provided in Section 11403, who meets the conditions of subdivision (a), (b), or (c):

(a) The child has been relinquished, for purposes of adoption, to a licensed adoption agency, or the department, or the parental rights of either or both of his or her parents have been terminated after an action under the Civil Code has been brought by a licensed adoption

agency or the department, provided that the licensed adoption agency or the department, if responsible for placement and care, provides to such children all services as required by the department to children in foster care.

(b) The child has been deprived of parental support or care due to any of the reasons set out under Section 11250, provided:

(1) The child has been removed from the physical custody of his or her parent or guardian as a result of a judicial determination that continuance in the home would be contrary to the child's welfare and that, if the child has been placed in foster care, reasonable efforts have been made, and will continue to be made, to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home, and any of the following:

(A) Has been adjudged a dependent child of the court on the grounds that he or she is a person described by Section 300.

(B) Has been adjudged a ward of the court on the grounds that he or she is a person described by Sections 601 and 602.

(C) Has been detained under a court order pursuant to Section 319 or 636 which remains in effect.

(D) Has been placed out of home pursuant to an individualized education program developed under Section 7572.5 of the Government Code.

(2) The child has been voluntarily placed by his or her parent or guardian pursuant to Section 11401.1 or in a demonstration county, pursuant to Section 16550, et seq.; or

(3) The child is living in the home of a nonrelated legal guardian.

(c) The child has been placed in foster care under the provisions of the federal Indian Child Welfare Act. The provisions of Sections 11402, 11404, and 11405 shall not be construed as limiting payments to Indian children, as defined in the federal Indian Child Welfare Act, placed in accordance with such act.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 354

An act to repeal and add Section 11271 of the Water Code, relating to water resources.

[Approved by Governor July 28, 1985. Filed with Secretary of State July 29, 1985.]

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

SECTION 1. Section 11271 of the Water Code is repealed.

SEC. 2. Section 11271 is added to the Water Code, to read:

11271. The operation of the North Bay Aqueduct, or any joint-use facilities of that unit or project, shall conform to any applicable standard established by the State Water Resources Control Board relating to the State Water Resources Development System. The director shall continue the work of the Sacramento-San Joaquin water supervision service now under way to maintain continuing records of the source, extent, and occurrence of salinity throughout the Sacramento-San Joaquin Delta.

CHAPTER 355

An act to amend Section 45272 of the Education Code, relating to classified employees.

[Approved by Governor July 29, 1985 Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 45272 of the Education Code is amended to read:

45272. (a) All vacancies in the classified service shall be filled pursuant to this article and the rules of the commission, from applicants on eligibility lists which, wherever practicable, as determined by the commission, shall be made up from promotional examinations, or appointments may be made by means of transfer, demotion, reinstatement, and reemployment in accordance with the rules of the commission. All applicants for promotional examinations shall have the required amount of service in classes designated by the commission or meet the minimum qualifications of education, training, experience, and length of service, which shall be determined by the commission to be appropriate for the class for which they have applied. Any promotional applicant who has served the required amount of time in a designated class or who meets the minimum qualifications for admission to a promotional examination shall be admitted to the examination. Applicants shall be placed on the eligibility lists in the order of their relative merit as determined by competitive examinations. The final scores of candidates shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank. Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.

(b) Upon the request of a majority of the members of the

governing board of a district, the commission may exempt one or more executive secretarial positions from the requirements of this section. Exemptions authorized under this subdivision shall be limited to executive secretarial positions reporting directly to members of the governing board, the district superintendent, or or not more than four principal deputies of the district superintendent, or all of these positions.

Any person employed in an exempt executive secretarial position shall continue to be afforded all of the rights, benefits, and burdens of any other classified employee serving in the regular service of the district, except he or she shall not attain permanent status in an executive secretarial position. Positions of executive secretary shall be filled from an unranked list of eligible employees who have been found to be qualified for the positions as specified by the district superintendent and determined by the personnel commission. Any person whose services in an executive secretarial position are discontinued for a cause other than a cause for disciplinary action specified in this code or in a rule of the commission shall have the right to return to a position in a classification he or she previously occupied or, if that classification no longer exists, in a similar classification, as determined by the commission.

Nothing contained in this section shall authorize the selection of eligible candidates in circumvention of the affirmative action programs of any school district.

CHAPTER 356

An act to amend Section 227p of the Civil Code, and to amend Sections 1822 and 1827.5 of, and to add Section 1461.4 to, the Probate Code, relating to civil law.

[Approved by Governor July 29, 1985. Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 227p of the Civil Code is amended to read:

227p. (a) Any adult person may adopt any other adult person younger than himself or herself, except the spouse of the adopting person, by an agreement of adoption approved by a decree of adoption of the superior court of the county in which either the person adopting or the person adopted resides, as provided in this section. The agreement of adoption shall be in writing and shall be executed by the person adopting the person to be adopted, and shall set forth that the parties agree to assume toward each other the legal relation of parent and child, and to have all of the rights and be subject to all of the duties and responsibilities of that relation.

A married person not lawfully separated from his or her spouse

cannot adopt an adult person without the consent of the spouse of the adopting person, if the spouse, not consenting, is capable of giving the consent. A married person not lawfully separated from his or her spouse cannot be adopted without the consent of the spouse of the person to be adopted if the spouse, not consenting, is capable of giving that consent. Neither the consent of the natural parent or parents of the person to be adopted, nor of the State Department of Social Services, nor of any other person shall be required.

The adopting person and the person to be adopted may file in the superior court of the county in which either resides a petition praying for approval of the agreement of adoption by the issuance of a decree of adoption. The court shall fix a time and place for hearing on the petition, and both the person adopting and the person to be adopted shall appear at the hearing in person, unless an appearance is impossible, in which event an appearance may be made for either or both of the persons by counsel, empowered in writing to make the appearance. The court may require notice of the time and place of the hearing to be served on any other interested persons, and any such interested person may appear and object to the proposed adoption. No investigation or report to the court by any public officer or agency is required, but the court may require the county probation officer or the State Department of Social Services to investigate the circumstances of the proposed adoption and report thereon, with recommendations, to the court prior to the hearing.

At the hearing the court shall examine the parties, or the counsel of any party not present in person. If the court is satisfied that the adoption will be for the best interests of the parties and in the public interest, and that there is no reason why the petition should not be granted, the court shall approve the agreement of adoption, and make a decree of adoption declaring that the person adopted is the child of the person adopting him or her; otherwise, the court shall withhold approval of the agreement and deny the petition.

A married minor child may be adopted pursuant to the provisions of this section if he or she has the written consent of his or her spouse to the adoption.

(b) The person seeking to adopt shall mail or personally serve notice of the hearing and a copy of the petition to the director of the regional center for the developmentally disabled, established pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code, and to any living parents or adult children of the proposed adoptee, at least 30 days before the day of the hearing on a petition for adoption in any case in which both of the following conditions exist:

(1) The proposed adoptee is an adult with developmental disabilities.

(2) The person seeking to adopt is a provider of board and care, treatment, habilitation, or other services to persons with developmental disabilities or is a spouse or employee of a provider.

(c) (1) The petition for adoption shall state the length and nature

of the relationship between the person seeking to adopt and the proposed adoptee; the degree of kinship, if any; the reason the adoption is sought, together with a statement as to why the adoption would be in the best interests of the person seeking to adopt, the proposed adoptee, and the public; the names and addresses of any living parents or adult children of the proposed adoptee; and whether the person seeking to adopt or his or her spouse has previously adopted any other adult person and, if so, the names of any such person, together with the date and place of the adoption.

(2) No person shall adopt more than one unrelated adult person within one year of his or her adoption of an unrelated adult unless the person to be adopted is the sibling by birth of a person previously adopted pursuant to this section, or unless the person to be adopted is disabled or physically handicapped. No person shall adopt an unrelated adult person within one year of any adoption of an unrelated adult by his or her spouse, unless the person to be adopted is the sibling by birth of a person previously adopted pursuant to this section.

(3) If the person seeking to adopt is a provider of board and care, treatment, habilitation, or other services to persons with developmental disabilities, or is a spouse or employee of a provider, and seeks to adopt an unrelated adult with developmental disabilities, the regional center for the developmentally disabled notified pursuant to subdivision (b) shall file a written report with the court regarding the suitability of the proposed adoption in meeting the needs of the proposed adoptee, and regarding any known previous adoption by the petitioner.

(4) A hearing with regard to the adoption of a person or the termination of a parent and child relationship established pursuant to this section may, in the discretion of the court, be open and public.

(5) In determining whether or not the adoption of any person pursuant to this subdivision is in the public interest or the best interests of the persons seeking the adoption, the court may consider evidence, oral or written, whether or not it is in conformity with the Evidence Code.

(6) Any person who has been adopted under the provisions of this section may, upon written notice to the adoptive parent, file a petition to terminate the relationship of parent and child. The petition shall indicate the name and address of the petitioner, the name and address of the adoptive parent, the date and place of the adoption, and the circumstances upon which the petition is based. If the adoptive parent consents in writing to the termination, an order terminating the relationship of parent and child may be issued by the court without further notice.

(7) If the adoptive parent does not consent to the termination, a verified, written response shall be filed within 30 days of the date of mailing of the notice, and the matter shall be set for hearing. The court may require an investigation by the county probation officer or the State Department of Social Services.

SEC. 2. Section 1461.4 is added to the Probate Code, to read:

1461.4. (a) The petitioner shall mail or personally serve a notice of the hearing and a copy of the petition to the director of the regional center for the developmentally disabled at least 30 days before the day of the hearing on a petition for appointment in any case in which all of the following conditions exist:

(1) The proposed ward or conservatee has developmental disabilities.

(2) The proposed guardian or conservator is not the natural parent of the proposed ward or conservatee.

(3) The proposed guardian or conservator is a provider of board and care, treatment, habilitation, or other services to persons with developmental disabilities or is a spouse or employee of a provider.

(4) The proposed guardian or conservator is not a public entity.

(b) The regional center shall file a written report and recommendation with the court regarding the suitability of the petitioners to meet the needs of the proposed ward or conservatee in any case described in subdivision (a).

SEC. 3. Section 1822 of the Probate Code is amended to read:

1822. (a) At least 15 days before the hearing on the petition for appointment of a conservator, notice of the time and place of the hearing shall be given as provided in subdivisions (b), (c), and (d). The notice shall be accompanied by a copy of the petition.

(b) Notice shall be mailed to the following persons (other than the petitioner or persons joining in the petition):

(1) The spouse, if any, of the proposed conservatee at the address stated in the petition.

(2) The relatives named in the petition at their addresses stated in the petition.

(c) If notice is required by Section 1461 to be given to the Director of Mental Health or the Director of Developmental Services, notice shall be mailed as so required.

(d) If the petition states that the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration, notice shall be mailed to the office of the Veterans Administration referred to in Section 1461.5.

(e) If notice is required to be given to the director of the regional center for the developmentally disabled, pursuant to Section 1461.4, notice shall be mailed as so required.

(f) If the petition is for the appointment of a limited conservator, the notice or notices required by this section shall be accompanied by a copy of the petition.

(g) The court shall order that notice be given to the regional center identified in Section 1827.5.

SEC. 4. Section 1827.5 of the Probate Code is amended to read:

1827.5. (a) In the case of any proceeding to establish a limited conservatorship, within 30 days after the filing of a petition for limited conservatorship, a proposed limited conservatee, with his or her consent, shall be assessed at a regional center as provided in

Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code. The regional center shall submit a written report of its findings and recommendations to the court. The report shall include a description of the proposed limited conservatee's specific areas, nature, and degree of disability, if any. The findings and recommendations of the regional center are not binding upon the court.

In a proceeding where the petitioner is a provider of board and care, treatment, habilitation, or other services to persons with developmental disabilities or a spouse or employee of a provider, is not the natural parent of the proposed limited conservatee, and is not a public entity, the regional center shall include a recommendation in its report concerning the suitability of the petitioners to meet the needs of the proposed limited conservatee.

(b) At least five days before the hearing on the petition, the regional center shall mail a copy of the report referred to in subdivision (a) to all of the following:

(1) The proposed limited conservatee.

(2) The attorney, if any, for the proposed limited conservatee.

(3) If the petitioner is not the proposed limited conservatee, the attorney for the petitioner or the petitioner if the petitioner does not have an attorney.

(4) Such other persons as the court orders.

CHAPTER 357

An act to amend Section 803 of the Penal Code, relating to crimes.

[Approved by Governor July 29, 1985 Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 803 of the Penal Code is amended to read:

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

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

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

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

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

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

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

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

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

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to those offenses set forth under Division 7 (commencing with Section 13000) of the Water Code or those offenses set forth under Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

CHAPTER 358

An act to amend Section 3525 of the Elections Code, relating to elections.

[Approved by Governor July 29, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 3525 of the Elections Code is amended to read:

3525. Every constitutional amendment, bond measure, or other legislative measure submitted to the people by the Legislature shall appear on the ballot of the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature.

CHAPTER 359

An act to amend Sections 649.1, 6147, and 6205 of, and to add Sections 591.9 and 1201 to, the Probate Code, relating to probate, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 591.9 is added to the Probate Code, to read:

591.9. (a) Subject to Sections 591.3 to 591.5, inclusive, and the applicable fiduciary duties, an executor or administrator who has been granted authority to administer the estate without court supervision under this article may sell property of the estate either at public auction or private sale, and with or without notice, for the price and upon those terms and conditions that the executor or administrator may determine. The requirements applicable to court confirmation of sales of real property, including publication of notice of sale, court approval of agent's and broker's commissions, and sale at not less than 90 percent of appraised value, do not apply to sales under independent administration. This subdivision applies to any sale made under authority of this article on or after January 1, 1985.

(b) If the executor or administrator is otherwise required to file a bond and is authorized to sell real property of the estate without court supervision under this article, the court, in its discretion, may fix the amount of the bond at not less than the estimated value of the personal property, the estimated proceeds of the real property that will be sold under this article, and the estimated value of the probable annual gross income of all of the property belonging to the estate, or, if the bond is to be given by personal sureties, at not less than twice that amount.

SEC. 2. Section 649.1 of the Probate Code is amended to read:

649.1. (a) Except as provided in Section 649.3, when a husband or wife dies intestate leaving property that passes to the surviving spouse under Section 6401, or dies testate and by his or her will bequeaths or devises all or a part of his or her property to the surviving spouse, it passes to the survivor subject to the provisions of Sections 649.2 and 649.4, and no administration is necessary.

(b) Notwithstanding subdivision (a), upon the election of the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse, the following property may be administered under this division:

(1) The one-half of the community property that belongs to the decedent under Section 100, the one-half of the quasi-community property that belongs to the decedent under Section 101, and the separate property of the decedent.

(2) Both the property described in paragraph (1) and the one-half of the community property that belongs to the surviving spouse under Section 100, and the one-half of the quasi-community property that belongs to the surviving spouse under Section 101.

(c) The election under subdivision (b) shall be made within four months after the issuance of letters testamentary or of administration, or within such further time as the court may allow upon a showing of good cause, by a writing specifically evidencing the election filed in the proceedings for the administration of the estate of the deceased spouse and prior to the entry of an order under

Section 655.

(d) Notwithstanding subdivision (a) or (b), the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file an election and agreement in the proceedings for the administration of the estate of the deceased spouse to have all or part of the one-half of the community property that belongs to the surviving spouse under Section 100 and the one-half of the quasi-community property that belongs to the surviving spouse under Section 101 transferred by the surviving spouse or the surviving spouse's personal representative, guardian, or conservator to the trustee under the will of the deceased spouse or the trustee of an existing trust identified by the will of the deceased spouse, to be administered and distributed by the trustee. The election and agreement must be filed before the entry of the decree of final distribution in the proceedings.

SEC. 3. Section 1201 is added to the Probate Code, to read:

1201. (a) Except as otherwise provided in this section, where a provision of this division requires that notice be given to heirs, or to devisees and legatees, or both, of a decedent or testator:

(1) Notice need not be given to an heir of the decedent or testator if the person is an heir because of a parent-child relationship between a stepchild and a stepparent or between a foster child and a foster parent.

(2) Notice need not be given to a person who is a member of a class to whom a devise or bequest is made if the person is a member of the class because of a parent-child relationship between a stepchild and a stepparent or between a foster child and a foster parent.

(b) Subdivision (a) does not apply where the person required to give the notice has actual knowledge of facts which a person would reasonably believe give rise under Section 6408 to the parent-child relationship between the stepchild and the stepparent or the foster child and the foster parent.

(c) Nothing in this section limits the provisions of Sections 1202, 1202.5, or 1204.

SEC. 4. Section 6147 of the Probate Code is amended to read:

6147. (a) As used in this section, "devisee" means a devisee who is kindred of the testator or kindred of a surviving, deceased, or former spouse of the testator.

(b) Subject to subdivision (c), if a devisee is dead when the will is executed, or is treated as if he or she predeceased the testator, or fails to survive the testator or until a future time required by the will, the issue of the deceased devisee take in his or her place in the manner provided by Section 240. A devisee under a class gift is a devisee for the purpose of this subdivision unless his or her death occurred before the execution of the will and that fact was known to the testator when the will was executed.

(c) The issue of a deceased devisee do not take in his or her place if the will expresses a contrary intention or a substitute disposition.

A requirement that the initial devisee survive for a specified period of time after the death of the testator constitutes a contrary intent. A requirement that the initial devisee survive until a future time that is related to the probate of the will or administration of the estate of the testator constitutes a contrary intent.

SEC. 5. Section 6205 of the Probate Code is amended to read:

6205. "Descendants" means children, grandchildren, and their lineal descendants of all generations, with the relationship of parent and child at each generation being determined as provided in Section 6152. A reference to "descendants" in the plural includes a single descendant where the context so requires.

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 avoid the expense of giving unnecessary notices to persons who have no interest in a decedent's estate under a statutory provision that became operative on January 1, 1985, and to avoid ambiguities in the application of statutory provisions that became operative on January 1, 1985, it is necessary that this act take effect immediately.

CHAPTER 360

An act relating to fire suppression, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. In addition to any other appropriation, and notwithstanding subdivision (c) of Section 12.30 of the Budget Act of 1985, the sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the Contingency Reserve for Economic Uncertainties, as provided in Section 12.30 of the Budget Act of 1985, to the Department of Forestry to contract with private individuals or entities for up to five additional multiengine tanker aircraft, including the costs for standby, operational costs, maintenance, insurance, and all normal support services.

The Department of Forestry and the Department of Finance shall seek all available federal funds for the support of this act. The authority conferred pursuant to this act is necessary to alleviate an extreme emergency, and is not subject to existing competitive bidding procedures, except that potential contractors shall be immediately identified and notified, and given an opportunity to

contract with the Department of Forestry.

Notwithstanding subdivision (c) of Section 12.30 of the Budget Act of 1985, as amended by Chapter 139 of the Statutes of 1985, this appropriation shall not be deemed an appropriation from the General Fund.

SEC. 2. It is the intent of the Legislature that, to the maximum extent practicable, in keeping with sound management practices, and in consideration of any regional imbalance in provision of equipment and service, the department shall deploy the additional aerial tanker aircraft provided for in this act to meet the exigencies of terrain, weather, fuels, length of fire season, and population, where extreme fire hazards from fuels and terrain are joined with complex intermingling of habitation in the urban-wildland interface.

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

In order to provide additional fire fighting air tankers necessitated by the intensity and length of the 1985 fire season in southern California and to facilitate the shortest possible response times for essential fire suppression operations to San Diego, Orange, and Riverside Counties, it is necessary that this act take effect immediately.

CHAPTER 361

An act to amend Sections 4602, 4606, and 4607 of the Civil Code, relating to family law and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1985. Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 4602 of the Civil Code is amended to read:

4602. In any proceeding under this part, when so directed by the court, the probation officer or domestic relations investigator shall conduct a custody investigation and file a written confidential report on it. The report may be considered by the court and shall be made available only to the parties or their attorneys at least 10 days before any hearing regarding the custody of a child. The report may be received in evidence upon stipulation of all interested parties.

When the probation officer or domestic relations investigator is directed by the court to conduct a custody investigation or to undertake visitation work, including necessary evaluation, supervision, and reporting, the court shall make inquiry into the financial condition of the parent, guardian, or such other person

charged with the support and maintenance of the minor, and if the court finds the parent, guardian, or other person able, in whole or in part, to pay the expense of the investigation, report, and recommendation, the court may make an order requiring that parent, guardian, or other person to repay to the county that part, or all, of the expense of investigation, report, and recommendation as, in the opinion of the court, is proper. The repayment shall be made to the county officer designated by the board of supervisors, who shall keep suitable accounts of these expenses and repayments and shall deposit these collections in the county treasury.

Nothing in this section shall prohibit the probation officer or domestic relations investigator from recommending to the court that counsel be appointed pursuant to Section 4606 to represent the minor child or children. In making any recommendation, the probation officer or domestic relations investigator shall inform the court of the reasons why it would be in the best interests of the minor child or children to have counsel appointed.

SEC. 2. Section 4606 of the Civil Code is amended to read:

4606. In any initial or subsequent proceeding under this part where there is in issue the custody of or visitation with a minor child, the court may, if it determines it would be in the best interests of the minor child, appoint private counsel to represent the interests of the minor child. When the court appoints counsel to represent the minor, counsel shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. Such amount shall be paid by the parents in such proportions as the court deems just.

SEC. 3. Section 4607 of the Civil Code is amended to read:

4607. (a) In any proceeding where there is at issue the custody of or visitation with a minor child, and where it appears on the face of the petition or other application for an order or modification of an order for the custody or visitation of a child or children that either or both such issues are contested, as provided in Section 4600, 4600.1 or 4601, the matter shall be set for mediation of the contested issues prior to or concurrent with the setting of the matter for hearing. The purpose of such mediation proceeding shall be to reduce acrimony which may exist between the parties and to develop an agreement assuring the child or children's close and continuing contact with both parents. The mediator shall use his or her best efforts to effect a settlement of the custody or visitation dispute.

(b) Each superior court shall make available a mediator. Such mediator may be a member of the professional staff of a family conciliation court, probation department, or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court shall not be required to institute a family conciliation court. The mediator shall meet the minimum qualifications required of a counselor of conciliation as provided in Section 1745 of the Code of Civil Procedure.

(c) Mediation proceedings shall be held in private and shall be confidential, and all communications, verbal or written, from the parties to the mediator made in a proceeding pursuant to this section shall be deemed to be official information within the meaning of Section 1040 of the Evidence Code.

(d) The mediator shall have the authority to exclude counsel from participation in the mediation proceedings where, in the discretion of the mediator, exclusion of counsel is deemed by the mediator to be appropriate or necessary. The mediator shall have the duty to assess the needs and interests of the child or children involved in the controversy and shall be entitled to interview the child or children when the mediator deems such interview appropriate or necessary.

(e) The mediator may, consistent with local court rules, render a recommendation to the court as to the custody or visitation of the child or children. The mediator may, in cases where the parties have not reached agreement as a result of the mediation proceeding, recommend to the court that an investigation be conducted pursuant to Section 4602, or that other action be taken to assist the parties to effect a resolution of the controversy prior to any hearing on the issues. The mediator may, in appropriate cases, recommend that mutual restraining orders be issued, pending determination of the controversy, to protect the well-being of the children involved in the controversy. Any agreement reached by the parties as a result of mediation shall be reported to the court and to counsel for the parties by the mediator on the day set for mediation or any time thereafter designated by the court.

(f) Nothing in this section shall prohibit the mediator from recommending to the court that counsel be appointed pursuant to Section 4606 to represent the minor child or children. In making any recommendation, the mediator shall inform the court of the reasons why it would be in the best interests of the minor child or children to have counsel appointed.

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:

Due to the large increase in judicial actions involving minor children, it is necessary that this act take effect immediately to protect the interests of these children.

CHAPTER 362

An act to amend Sections 4383 and 4801.4 of, and to add Sections 4370.5 and 4800.4 to, the Civil Code, and to amend Section 699.560 of the Code of Civil Procedure, relating to family law.

[Approved by Governor July 29, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 4370.5 is added to the Civil Code, to read:

4370.5. (a) The court may make an award under this chapter where the making of the award, and the amount of the award, is just and reasonable under the circumstances of the respective parties.

(b) In determining what is just and reasonable under the circumstances, the court shall take into consideration both of the following:

(1) The need for the award to enable each party, to the extent practical, to have sufficient financial resources to adequately present his or her case, taking into consideration to the extent relevant the circumstances of the respective parties described in subdivision (a) of Section 4801.

(2) The extent to which the conduct of each party and the attorney furthers or frustrates the policy of the law to promote settlement of litigation, and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys.

(c) The court may order payment of the award from any type of property, whether community or separate, principal or income.

SEC. 2. Section 4383 of the Civil Code is amended to read:

4383. (a) Notwithstanding Section 4380, a judgment, order, or decree for the payment of child or spousal support may be enforced by a writ of execution without prior court approval for amounts that are not more than 10 years overdue on the date of the application for the writ. Notwithstanding Section 4351, a judgment, order, or decree for the payment of child or spousal support may be enforced against an employee pension benefit plan regardless of whether the plan has been joined as a party to a proceeding under this part. Notwithstanding Section 697.710 of the Code of Civil Procedure, an execution lien created by a levy on the judgment debtor's right to payment of benefits from an employee pension benefit plan to enforce a judgment, order, or decree for the payment of child or spousal support continues until the date the plan has withheld and paid over to the levying officer, as provided in Section 701.010 of the Code of Civil Procedure, the full amount specified in the notice of levy, unless the plan is directed to stop withholding and paying over before that time by court order or by the levying officer.

(b) The application for a writ of execution shall be accompanied by an affidavit stating the total amount due and unpaid that is not more than 10 years overdue on the date of the application. If interest on the overdue installments is sought, the affidavit shall state the total amount of the interest and the amount of each due and unpaid installment and the date it became due. The affidavit shall be filed in the action and a copy shall be attached to the writ of execution

delivered to the levying officer. The levying officer shall serve the copy of the affidavit on the judgment debtor when the writ of execution is first served on the judgment debtor pursuant to a levy under the writ.

(c) A writ of execution pursuant to which a levy is made on the judgment debtor's right to payment of benefits from an employee pension benefit plan under this section shall be returned not later than one year after the date the execution lien expires under subdivision (a).

SEC. 3. Section 4800.4 is added to the Civil Code, to read:

4800.4. (a) In a proceeding for division of the community property and the quasi-community property, the court has jurisdiction, at the request of either party, to divide the separate property interests of the parties in real and personal property, wherever situated and whenever acquired, held by the parties as joint tenants or tenants in common. The property shall be divided together with, and in accordance with the same procedure for and limitations on, division of community property and quasi-community property.

(b) This section applies to proceedings commenced on or after January 1, 1986, regardless of whether the property was acquired before, on, or after January 1, 1986.

SEC. 4. Section 4801.4 of the Civil Code is amended to read:

4801.4. For the purposes of Section 4801, where it is just and reasonable in view of the circumstances of the respective parties, the court, in determining the needs of a supported spouse, may include an amount sufficient to purchase an annuity for the supported spouse or to maintain insurance for the benefit of the supported spouse on the life of the spouse required to make the payment of support, or may require the spouse required to make the payment of support to establish a trust to provide for the support of the supported spouse, so that the supported spouse will not be left without means for support in the event that the order for support is terminated by the death of the party required to make the payment of support. Except as otherwise agreed to by the parties in writing, an order made under this section may be modified or terminated at the discretion of the court at any time prior to the death of the party required to make the payment of support.

SEC. 5. Section 699.560 of the Code of Civil Procedure is amended to read:

699.560. (a) Except as provided in subdivisions (b) and (c), the levying officer to whom the writ of execution is delivered shall return the writ to the court, together with a report of the levying officer's actions and an accounting of amounts collected and costs incurred, at the earliest of the following times:

(1) Two years from the date of issuance of the writ.

(2) Promptly after all of the duties under the writ are performed.

(3) When return is requested in writing by the judgment creditor.

(4) If no levy takes place under the writ within 180 days after its

issuance, promptly after the expiration of the 180-day period.

(5) Upon expiration of the time for enforcement of the money judgment.

(b) If a levy has been made under Section 700.200 upon an interest in personal property in the estate of a decedent, the writ shall be returned within the time prescribed in Section 700.200.

(c) If a levy has been made under Section 4383 of the Civil Code on the judgment debtor's right to the payment of benefits from an employee pension benefit plan, the writ shall be returned within the time prescribed in that section.

CHAPTER 363

An act to amend Sections 1151 and 1153 of the Government Code, relating to administrative procedures.

[Approved by Governor July 29, 1985. Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 1151 of the Government Code is amended to read:

1151. State employees may authorize deductions to be made from their salaries or wages for payment of one or more of the following:

(a) Insurance premiums or other employee benefit programs sponsored by a state agency under appropriate statutory authority.

(b) Premiums on National Service Life Insurance or United States Government Converted Insurance.

(c) Shares or obligations to any regularly chartered credit union.

(d) Recurrent fees or charges payable to a state agency for a program which has a purpose related to government, as determined by the Controller.

(e) The purchase of United States savings bonds in accordance with procedures established by the Controller.

(f) Payment of charitable contributions under any plan approved by the Board of Control in accordance with procedures established by the Controller.

(g) Passes, tickets, or tokens issued for a period of one month, or more, by a public transportation system.

(h) Deposit into an employee's account with a state or federal bank or savings and loan association located in this state, for services offered by that bank or savings and loan association.

(i) The purchase of any investment or thrift certificate issued by an industrial loan company licensed by this state.

SEC. 2. Section 1153 of the Government Code is amended to read:

1153. The Controller shall provide for the administration of payroll deductions as set forth in Sections 1151 and 1152, and may establish, by rule or regulation, procedures for that purpose.

In administering payroll deductions the Controller shall:

(a) Make, cancel, or change a deduction at the request of the person or organization authorized to have the deduction. All requests shall be made on forms approved by the Controller.

(b) Obtain a certification from any state agency, employee organization, or business entity requesting a deduction that they have and will maintain an authorization to make the deduction, signed by the individual from whose salary or wages the deduction is to be made.

(c) Provide for an agreement from organizations and business entities receiving deductions or other deduction services to relieve the state, its officers and employees, of any liability that may result from making, canceling, or changing requested deductions.

(d) Determine the cost of performing the requested deduction service and collect that cost from the organization, entity, or individual requesting or authorizing the deduction. Services requested which are incidental, but not necessary, to making the deduction may be performed at the Controller's discretion with any additional cost to be paid by the requester.

(e) Prior to making a deduction for an employee organization or a bona fide association, determine that the organization or association has been recognized, certified, or registered by the appropriate authority.

(f) Decline to make deductions for any individual, organization, or entity if the Controller determines that it is not administratively feasible or practical to make the deduction, or if the Controller determines that the individual, organization, or entity requesting or receiving the deduction has failed to comply with any statute, rule, regulation, or procedure for the administration of deductions.

(g) Make, cancel, or change a deduction not later than the month subsequent to the month in which the request is received. All deductions, cancellations, or changes shall be effective when made by the Controller.

(h) At the request of a state agency, transfer employee deduction authorization for a state-sponsored benefit program from one provider to another if the benefit and the employee contribution remain substantially the same. Notice of the transfer shall be given by the Controller to all affected employees.

CHAPTER 364

An act to amend Section 653h of the Penal Code, relating to music.

[Approved by Governor July 29, 1985. Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 653h of the Penal Code is amended to read:

653h. (a) Every person is guilty of a public offense punishable by imprisonment in the county jail not to exceed one year, or by a fine not to exceed twenty-five thousand dollars ($25,000), or by both such imprisonment and fine, who:

(1) Knowingly and willfully transfers or causes to be transferred any sounds that have been recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, with intent to sell or cause to be sold, or to use or cause to be used for commercial advantage or private financial gain through public performance, the article on which the sounds are so transferred, without the consent of the owner.

(2) Transports for monetary or like consideration within this state or causes to be transported within this state any such article with the knowledge that the sounds thereon have been so transferred without the consent of the owner.

(b) Any person who has been convicted of a violation of subdivision (a) shall, upon a subsequent conviction, be imprisoned in state prison, or by a fine not exceeding fifty thousand dollars ($50,000), or by both such fine and imprisonment.

(c) Every person who possesses for sale, or sells, or causes to be sold any such article with knowledge that the sounds thereon have been so transferred without the consent of the owner is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

(d) As used in this section, "person" means any individual, partnership, partnership's member or employee, corporation, association or corporation or association employee, officer or director; "owner" means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film or other article used for reproducing recorded sounds on phonograph records, discs, tapes, films or other articles on which sound is or can be recorded, and from which the transferred recorded sounds are directly or indirectly derived; and "fixation of sounds" means the master recording from which copies can be made of the series of sounds constituting the sound recording.

(e) This section shall neither enlarge nor diminish the right of parties in private litigation.

(f) This section does not apply to any person engaged in radio or

television broadcasting who transfers, or causes to be transferred, any such sounds (other than from the sound track of a motion picture) intended for, or in connection with broadcast transmission or related uses, or for archival purposes.

(g) This section does not apply to any not-for-profit educational institution or any federal or state governmental entity, if the institution or entity has as a primary purpose the advancement of the public's knowledge and the dissemination of information regarding America's musical cultural heritage, provided that this purpose is clearly set forth in the institution's or entity's charter, bylaws, certificate of incorporation, or similar document, and the institution or entity has. prior to the transfer, made a good faith effort to identify and locate the owner or owners of the sound recordings to be transferred and, provided that the owner or owners could not be and have not been located. Nothing in this section shall be construed to relieve an institution or entity of its contractual or other obligation to compensate the owners of sound recordings to be transferred. In order to continue the exemption permitted by this subdivision, the institution or entity shall make continuing efforts to locate such owners and shall make an annual public notice of the fact of the transfers in newspapers of general circulation serving the jurisdictions where the owners were incorporated or doing business at the time of initial affixations. The institution or entity shall keep on file a record of the efforts made to locate such owners for inspection by appropriate governmental agencies.

(h) This section applies only to such articles that were initially fixed prior to February 15, 1972.

SEC. 2. Section 653v of the Penal Code is amended to read:

653v. Whenever any person is convicted of any violation of Section 653h, 653s, 653u, or 653w the court, in its judgment of conviction, shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all articles, including, but not limited to, phonograph records, discs, wires, tapes, films, or any other article upon which sounds or images can be recorded or stored, and any and all electronic, mechanical, or other devices for manufacturing, reproducing or assembling these articles, which were used in connection with, or which were part of, any violation of Section 653h, 653s, 653u, or 653w.

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 365

An act to amend Section 20394.5 of the Public Contract Code, relating to county highways.

[Approved by Governor July 29, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 20394.5 of the Public Contract Code is amended to read:

20394.5. Notwithstanding any other provision of this article, whenever the board of supervisors finds that the estimated expense of any work to be done upon any county highway is fifty thousand dollars ($50,000) or less, the board or the purchasing agent may have the work done by contract upon notice describing the work in general terms and stating a closing date for submission of bids.

Notice shall be published in a newspaper of general circulation printed and published within the jurisdiction of the county. Notice shall be published in accordance with Section 6066 of the Government Code and shall be completed at least 48 hours before the time scheduled for opening of the bids. Notice inviting bids may also be published in a trade publication.

The successful bidder shall give a bond in the amount the board requires, conditioned on the faithful performance of the contract, and on the payment of all labor employed and material used in the work.

The board may delegate its authority under this section to the county road commissioner.

CHAPTER 366

An act to amend Section 54957.6 of the Government Code, relating to local government.

[Approved by Governor July 29, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 54957.6 of the Government Code is amended to read:

54957.6. (a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, compensation paid in the form of fringe benefits of its represented and unrepresented employees. Closed sessions of a

legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives. Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) In addition to the closed sessions authorized by subdivision (a), the legislative body, as defined by Sections 54952, 54952.2, 54952.3, and 54952.5, of a public agency, as defined by subdivision (c) of Section 3501, may hold closed sessions with its designated representatives on mandatory subjects within the scope of representation of its represented employees, as determined pursuant to Section 3504.

CHAPTER 367

An act to amend Sections 1 and 484d of, and to repeal Title 9 (commencing with Section 14100) of Part 4 of, the Penal Code, relating to the Penal Code.

[Approved by Governor July 29, 1985 Filed with Secretary of State July 30, 1985]

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

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

1. This Act shall be known as THE PENAL CODE OF CALIFORNIA, and is divided into four parts, as follows:

I.—OF CRIMES AND PUNISHMENTS.

II.—OF CRIMINAL PROCEDURE.

III.—OF THE STATE PRISON AND COUNTY JAILS.

IV.—OF PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS.

SEC. 2. Section 484d of the Penal Code is amended to read:

484d. As used in this section and Sections 484e to 484j, inclusive:

(1) "Cardholder" means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

(2) "Credit card" means any card, plate, coupon book, or other credit device, including, but not limited to, an account number or code or other means of account access which exists for the purpose of being used from time to time upon presentation to obtain money, property, labor, or services on credit.

(3) "Expired credit card" means a credit card which shows on its

face it has elapsed.

(4) "Card issuer" means any person who issues a credit card or the agent of such person with respect to such card.

(5) "Retailer" means every person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit card by a cardholder.

(6) A credit card is "incomplete" if part of the matter other than the signature of the cardholder which an issuer requires to appear on the credit card before it can be used by a cardholder has not been stamped, embossed, imprinted, or written on it.

(7) "Revoked credit card" means a credit card which is no longer authorized for use by the issuer, such authorization having been suspended or terminated and written notice thereof having been given to the cardholder.

SEC. 3. Title 9 (commencing with Section 14100) of Part 4 of the Penal Code is repealed.

SEC. 4. The provisions of Section 2 of this act are declaratory of existing law.

CHAPTER 368

An act to amend Sections 1, 2, 3, and 4 of Chapter 1157 of the Statutes of 1981, relating to education.

[Approved by Governor July 29, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 1 of Chapter 1157 of the Statutes of 1981 is amended to read:

Sec. 1. (a) The Superintendent of Public Instruction may approve the application of the Los Angeles Unified School District to operate an innovative program at one or more year-round schools within the district for fewer calendar days than the minimum days required by Sections 37620, 41420, and 48224 of the Education Code, so long as the number of instructional days equals or exceeds 163 days and so long as the number of annual instructional minutes is equivalent to that of schools of the same grade levels utilizing the traditional school calendar.

(b) All certificated employees under this program, except those serving under an administrative or supervisorial credential and who are assigned full time to a school in positions requiring qualifications for certification, shall work the same number of days and shall increase the number of minutes worked daily on a uniform basis.

(c) An experimental or innovative program approved under this section shall be eligible for apportionment from the State School Fund.

SEC. 2. Section 2 of Chapter 1157 of the Statutes of 1981 is amended to read:

Sec. 2. Approval of innovative programs provided for in Section 1 of this act shall exempt the affected district and schools from the requirements of Sections 37202 and 37203 of the Education Code.

SEC. 3. Section 3 of Chapter 1157 of the Statutes of 1981 is amended to read:

Sec. 3. No student participating in innovative programs as described in Section 1 of this act shall be credited with more than one day of attendance in any calendar day, except as permitted in Section 46140 of the Education Code.

Average daily attendance generated in the regular elementary, junior high, and high schools operated under Section 1 of this act shall be calculated as prescribed in subdivision (a) of Section 41601 of the Education Code.

SEC. 4. Section 4 of Chapter 1157 of the Statutes of 1981 is amended to read:

Sec. 4. Innovative programs provided for in this act shall terminate on June 30, 1988, unless extended by subsequent legislation. The Superintendent of Public Instruction shall evaluate the innovative year-round programs operated pursuant to this act and shall report to the Legislature by January 1, 1987, on the effects, if any, of these programs upon the academic achievement of participating students. The report to the Legislature shall also identify major problems encountered by the school district in implementing this act.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 369

An act to amend Section 167 of the Military and Veterans Code, relating to state military service.

[Approved by Governor July 29, 1985. Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 167 of the Military and Veterans Code is amended to read:

167. (a) All commissioned and warrant officers and enlisted personnel on permanent active duty with the Office of the Adjutant General shall be appointed by the Governor, with consideration of the recommendation of the Adjutant General and, except for the

Adjutant General, the Assistant Adjutant General, and officers assigned to general officer positions, may remain on active duty with the office either until age 60 or until federal recognition of grade or rank as a member of the California National Guard is withdrawn, whichever occurs later.

(b) If the commission of an officer on active duty with the office is vacated pursuant to Section 232, if a warrant officer on active duty with the office is discharged pursuant to Section 225, or if an enlisted person on active duty with the office is discharged under proper authority, the provisions of subdivision (a) regarding retention until age 60 do not apply.

(c) A commissioned officer on active duty with the office assigned to a general officer position who, previous to that duty, held a permanent active duty position in the office at a lower grade may revert to the permanent grade last held upon vacation of the general officer position.

CHAPTER 370

An act to amend Sections 69948, 70049, and 70064 of the Government Code, relating to courts.

[Approved by Governor July 29, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 69948 of the Government Code is amended to read:

69948. (a) The fee for reporting testimony and proceedings in contested cases is fifty-five dollars ($55) a day, or any fractional part thereof.

(b) In San Joaquin County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(c) In Madera County, the fee for reporting testimony and proceedings in contested cases is eighty dollars ($80) a day, or any fractional part thereof.

(d) In Kings County, the fee for reporting testimony and proceedings in contested cases is eighty-five dollars ($85) a day, or any fractional part thereof.

(e) In Mariposa County, the fee for reporting testimony and proceedings in contested cases is ninety-five dollars ($95) a day, or any fractional part thereof.

(f) In Siskiyou County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(g) In Yuba County, the fee for reporting testimony and

proceedings in contested cases is seventy-five dollars ($75) a day, or any fractional part thereof.

(h) In Butte County, pro tempore reporters shall receive a fee of seventy-five dollars ($75) a day, or any fractional part thereof, for reporting testimony and proceedings in contested cases.

(i) In Sutter County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) a day, or any fractional part thereof.

(j) In Napa County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(k) In Tehama County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(*l*) In Monterey County, the fee for reporting testimony and proceedings in contested cases in any court is seventy-five dollars ($75) a day or any fractional part thereof.

(m) In Nevada County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(n) In Calaveras County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) per day, or any fractional part thereof; provided that the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(o) In Placer County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(p) In Sierra County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) per day, or any fractional part thereof.

(q) In Trinity County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(r) In Humboldt County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) per day, or any fractional part thereof.

(s) In Del Norte County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) per day, or any fractional part thereof.

(t) In Alpine County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(u) In Glenn County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(v) In Colusa County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) per day, or any fractional part thereof.

(w) In Shasta County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) per day, or any fractional part thereof.

(x) In Inyo County, the board of supervisors may, by resolution, prescribe a higher rate of compensation for superior court reporters

(y) In Mono County, the board of supervisors may, by resolution, prescribe a higher rate of compensation for superior court reporters.

SEC. 2. Section 70049 of the Government Code is amended to read:

70049. In a county with a population of over 11,650 and under 12,000, as determined by the 1960 federal census, each regular official reporter shall receive as full compensation for taking notes in criminal cases an annual salary set by resolution of the board of supervisors. All other fees of such reporters shall be as elsewhere provided by law.

SEC. 3. Section 70064 is added to the Government Code to read:

70064. In Mono County, each regular official reporter shall receive as full compensation for taking notes in criminal cases an annual salary set by resolution of the board of supervisors. All other fees of such reporters shall be as elsewhere provided by law.

CHAPTER 371

An act to amend Sections 5540, 5544.1, and 5544.2 of the Public Resources Code, relating to regional park, park and open-space, and open-space districts.

[Approved by Governor July 29, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 5540 of the Public Resources Code is amended to read:

5540. A district may take by grant, appropriation, purchase, gift, devise, condemnation, or lease, and may hold, use, enjoy, and lease or dispose of real and personal property of every kind, and rights in real and personal property, within or without the district, necessary to the full exercise of its powers.

Lands subject to the grant of an open-space easement executed and accepted by the district in accordance with this article are enforceably restricted within the meaning of Section 8 of Article XIII of the California Constitution. An easement or other interest in real property may be dedicated for park or open-space purposes, or both, by the adoption of a resolution by the board of directors, and any interest so dedicated may be conveyed only as provided in this section.

A district may not validly convey any interest in any real property actually dedicated and used for park or open-space, or both, purposes without the consent of a majority of the voters of the district voting at a special election called by the board and held for that purpose. Consent need not first be obtained for a lease of any real property for a period not exceeding 25 years; and consent need not first be

obtained for a conveyance of any real property if the Legislature, by concurrent resolution, authorizes a conveyance after a resolution of intention has been adopted by at least a two-thirds vote of the board of directors of the district, specifically describing the property to be conveyed.

SEC. 2. Section 5544.1 of the Public Resources Code is amended to read:

5544.1. Notwithstanding any other provisions of this article, the board may borrow money by the issuance of promissory notes or other evidences of indebtedness in an amount, or of a value, not exceeding, in the aggregate at any one time, the greater of 5 percent of the total of the district's general fund and development fund budgets for the year in which the loan is made, or the sum of five hundred thousand dollars ($500,000), to be used for any revenue-producing purpose for which the district may expend funds.

A district shall not exercise the borrowing authority conferred by this section if the district, at any time during the previous two years, has not met the loan repayment requirements of this section and the repayment provisions set forth in the promissory note or other evidence of indebtedness issued for a loan entered into pursuant to this section. A district shall not expend, in any one year, any amount of money in excess of what it collects in property taxes, state and federal subventions, grants, loans, fees, gifts, bequests, or income from other sources.

Indebtedness incurred pursuant to this section shall be repaid during a period not to exceed five years from June 30th of the fiscal year in which it is incurred and shall bear interest at a rate not exceeding 10 percent per annum, or the rate allowed under Section 53531 of the Government Code, if higher, payable annually or semiannually or in part annually and in part semiannually.

Each indebtedness incurred under this section shall be authorized by a resolution of the board unanimously adopted, shall be evidenced by a promissory note or contract signed by the president of the board and attested by the secretary or treasurer, and shall be sold at not less than 95 percent of the principal amount in the manner determined by the board at a discount which equals the underwriter's spread. The board shall determine that the discount reflects an underwriter's spread which is both reasonable and customary under the prevailing market conditions. One of the two signatures may be by facsimile reproduction.

The indebtedness authorized to be incurred by this section shall be in addition to, and the provisions of this section shall not apply to, any bonded indebtedness authorized by vote of the electors.

Nothing in this section limits or restricts the authority of the district to issue promissory notes or deeds of trust in the acquisition of real property or the exercise of its right of eminent domain subject to the limitations in Section 5568.

Nothing in this section limits the authority of the district to borrow pursuant to Section 5544.3.

SEC. 3. Section 5544.2 of the Public Resources Code is amended to read:

5544.2. (a) A district may acquire all necessary and proper lands and facilities, or any portion thereof, by means of a plan to borrow money or by purchase on contract.

(b) The amount of indebtedness to be incurred shall not exceed an amount equal to the anticipated tax income for the next four-year period derived pursuant to Section 5545 or the anticipated tax income for the next 10-year period derived pursuant to Section 50077 of the Government Code, or both; or, with respect to the East Bay Regional Park District only, the anticipated tax income for the next two-year period derived pursuant to Sections 5545 and 5545.5 or the anticipated tax income for the next 10-year period derived pursuant to Section 50077 of the Government Code, or both. All indebtedness which is incurred on or after July 1, 1982, pursuant to this section shall be repaid during a period not to exceed 10 years from the date on which it is incurred and shall bear interest at a rate not exceeding 10 percent per annum, or the rate allowed pursuant to Section 53531 of the Government Code, if higher, payable annually or semiannually or in part annually and in part semiannually. Each indebtedness shall be authorized by a resolution adopted by the affirmative votes of at least two-thirds of the members of the district board, shall be evidenced by a promissory note or contract signed by the president of the board and attested by the secretary or treasurer, and shall be sold at not less than 95 percent of the principal amount in the manner determined by the board at a discount which equals the underwriter's spread. The board shall determine that the discount reflects an underwriter's spread which is both reasonable and customary under the prevailing market conditions. One of the two signatures may be by facsimile reproduction. At the time of making the general tax levy after incurring each indebtedness and annually thereafter until the indebtedness is paid or until there is a sum in the treasury set apart for that purpose sufficient to meet all payments of principal and interest on the indebtedness as they become due, a portion of the taxes levied and collected pursuant to Section 50077 of the Government Code, if any, and pursuant to Sections 5545 and 5545.5 shall be levied and collected and set aside sufficient to pay the interest on the indebtedness and the part of the principal that will become due before the proceeds of a tax levied at the next general tax levy will be available.

(c) The indebtedness authorized to be incurred by this section shall be in addition to, and the provisions of this section shall not apply to, any bonded indebtedness authorized by vote of the electors.

CHAPTER 372

An act to amend Section 13412 of the Business and Professions Code, relating to disabled drivers.

[Approved by Governor July 29, 1985 Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 13412 of the Business and Professions Code is amended to read:

13412. (a) Every person, firm, partnership, association, trustee, or corporation which operates a gasoline service station, or other facility which offers gasoline or other motor vehicle fuel for sale to the public from such a facility, shall provide, upon request, refueling service to a disabled driver of a vehicle which displays a disabled person's plate or placard, or disabled veteran's plate or placard, issued by the Department of Motor Vehicles. The price charged for the motor vehicle fuel in such a case shall be no greater than that which the facility otherwise would charge the public generally to purchase motor vehicle fuel without refueling service.

(b) Every person, firm, partnership, association, trustee, or corporation subject to subdivision (a) shall post the following notice in a manner and single location which is conspicuous to a driver seeking refueling service:

Service to Disabled Persons

Disabled individuals properly displaying a handicapped parking placard or plate are entitled to request and receive refueling service at this gas station for which they may not be charged more than the self-service price.

(c) The provisions of this section do not apply to any of the following facilities:

(1) Exclusive self-service gas stations which have remotely controlled gas pumps, which are operated by a single cashier, and which never provide pump island service.

(2) Convenience stores which sell gasoline, which have remotely controlled gas pumps, which are operated by a single cashier, and which never provide pump island service.

(d) Any person who, as a responsible managing individual setting service policy of a station or facility or as an employee acting independently against set service policy, acts in violation of this section is guilty of an infraction punishable by a fine of twenty-five dollars ($25).

(e) Notwithstanding the provisions of Sections 12103.5 and 13590, the provisions of this section shall be enforced by the Director of the Department of Rehabilitation, the district attorney, city attorney, or

the Attorney General.

(f) The Director of the Department of Rehabilitation may, upon his or her own motion, and shall, upon the verified complaint of any person or public agency, investigate the actions of any person, firm, partnership, association, trustee, or corporation alleged to have violated this section. If the director determines that there may have been a violation, he or she shall refer the matter for prosecution to the district attorney, the city attorney, or the Attorney General.

(g) In addition to those matters referred pursuant to subdivision (f), the district attorney, the city attorney, or the Attorney General, upon his or her own motion, may investigate and prosecute alleged violations of this section.

(h) A notice setting forth the provisions of this section shall be provided by the Board of Equalization, in its quarterly newsletter, to every person, firm, partnership, association, trustee, or corporation which operates a gasoline service station, or other facility which offers gasoline or other motor vehicle fuel for sale to the public from such a facility.

(i) A notice setting forth the provisions of this section shall be provided by the Department of Motor Vehicles to every person who is issued a disabled person's plate or placard or a disabled veteran's plate or placard.

(j) For the purposes of this section, "refueling service" means the service of pumping motor vehicle fuel into the fuel tank of a motor vehicle.

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 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 373

An act to add Section 4708 to the Civil Code, and to amend Section 11475.1 of the Welfare and Institutions Code, relating to family law.

[Approved by Governor July 29, 1985 Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 4708 is added to the Civil Code, to read:

4708. In any case, in which, a parent has been ordered to make payments for the support, maintenance, and education of a minor child, an action to recover an arrearage in those payments may be

maintained at any time within the period otherwise specified for the enforcement of such a judgment, notwithstanding the fact that the child has attained the age of 18 years.

SEC. 2. 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 support obligations and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child is receiving public assistance, and when requested to do so by the individual on whose behalf the enforcement efforts will be made when the child is not receiving public assistance. 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. In any action brought or enforcement proceedings instituted by the district attorney pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the district attorney at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority. The county shall undertake an outreach program to inform the public that this service is available to persons not receiving public assistance. 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 and spousal support enforcement services are provided to all individuals whether or not they are recipients of public social services.

To the extent required by federal law, where the child and spouse are not receiving public assistance and the district attorney is collecting support, 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 sums to become due in the future. This fee shall be enforced in the same manner 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 its enforcement shall be the date when the support collected to which the fee applies, was paid, except that the 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 the collection to be discontinued prior to the collection of sums to which the fee would

otherwise apply, but the discontinuance shall have no effect on the enforcement collection of any fee which has become due because of the collection of support.

Nothing in this section 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 the 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.

CHAPTER 374

An act to amend Section 1463.16 of the Penal Code, relating to driving offenses.

[Approved by Governor July 29, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 1463.16 of the Penal Code is amended to read:

1463.16. (a) Notwithstanding Section 1203.1 or 1463, fifty dollars ($50) of each fine for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited with the county treasurer in a special account for exclusive allocation by the county for the county's alcoholism program, with approval of the board of supervisors, for alcohol programs and services for the general population. These funds shall be allocated through the local planning process pursuant to specific provision in the county alcohol program plan which is submitted to the State Department of Alcohol and Drug Programs. Programs shall be certified by the Department of Alcohol and Drug Programs or have made application for certification to be eligible for funding under this section. The county shall implement the intent and procedures of subdivision (b) of Section 11812 of the Health and Safety Code while distributing funds under this section.

(b) In a county of the first, second, third, or fifteenth class, notwithstanding Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, fifty dollars ($50) for each conviction of a violation of Section 23103, 23104, 23152, or 23153 of the Vehicle Code shall be deposited in a special account for exclusive allocation by the administrator of the county's alcoholism program, with approval of the board of supervisors, for alcohol programs and services for the general population. These funds shall be allocated

through the local planning process pursuant to a specific provision in the county plan which is submitted to the State Department of Alcohol and Drug Programs. For those services for which standards have been developed and certification is available, programs shall be certified by the State Department of Alcohol and Drug Programs or shall apply for certification to be eligible for funding under this section. The county alcohol administrator shall implement the intent and procedures of subdivision (b) of Section 11812 of the Health and Safety Code while distributing funds under this section.

(c) It is the specific intent of the Legislature that funds expended under this part shall be used for ongoing alcoholism program services as well as for contracts with private nonprofit organizations to upgrade facilities to meet state certification and state licensing standards and federal nondiscrimination regulations relating to accessibility for handicapped persons.

(d) Counties may retain up to 5 percent of the funds collected to offset administrative costs of collection and disbursement.

SEC. 2. No reimbursement is required by this act pursuant to 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.

CHAPTER 375

An act to amend Sections 50739, 50755, 50756, 50757, 50758, 50759, and 50760 of, and to amend the heading of Article 3 (commencing with Section 50755) of Chapter 9 of Part 2 of Division 31 of, the Health and Safety Code, relating to housing.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. The heading of Article 3 (commencing with Section 50755) of Chapter 9 of Part 2 of Division 31 of the Health and Safety Code is amended to read:

Article 3. Contracts with Local Public Entities

SEC. 2. Section 50739 of the Health and Safety Code is amended to read:

50739. At the time the department makes a payment pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or contracts to make annuity fund payments in connection with a rental housing development, or both, a written agreement between the

department and the agency, local finance entity, or local public entity shall be executed, designating the number of units within the rental housing development available to, or occupied by, very low income households, other lower income households, and other households. If the number of units occupied by very low income households or other lower income households in any housing development ever falls below the number agreed to by the department and agency, local finance entity, or local public entities, then units which become available for occupancy shall be made available on a priority basis to very low income households or other lower income households, as required, until the number of units so occupied equals at least the number specified in the agreement.

The department and the agency, local finance entity, or local public entity, may reduce the number of assisted units to less than 30 percent of a rental housing development only if necessary to maintain the development's fiscal integrity. Any reduction in the number of assisted units shall be reviewed annually to determine whether it is necessary to continue that reduction in the number of assisted units.

SEC. 3. Section 50755 of the Health and Safety Code is amended to read:

50755. The department may contract with local public entities to provide funds to be used by those entities to obtain a right of occupancy or leasehold for eligible households in some or all of the units in a rental housing development. In order to maximize the number of units for which a right of occupancy or leasehold is obtained, the payment made by the local public entity in obtaining the right or leasehold shall not exceed the costs of developing the unit. The local public entity may be authorized by the department to pay the entire amount of the development costs as soon as the unit is available for occupancy.

Any contract executed pursuant to this article which provides for a right of occupancy or leasehold in favor of a local public entity shall be recorded or referenced in a recorded document in the office of the county recorder of the county in which the real property is located. The contract shall particularly describe the real property subject to the right of occupancy or leasehold, designate the specific rental units or proportion of the rental housing development subject to the right of occupancy or leasehold, and specify the period for which the right of occupancy or leasehold extends.

SEC. 4. Section 50756 of the Health and Safety Code is amended to read:

50756. Each contract pursuant to Section 50755 shall be recorded or referenced in a recorded document in the office of the county recorder of the county in which the rental housing development is located, and shall be indexed by the recorder in the grantor index to the name of the sponsor and in the grantee index to the name of the State of California. The contract shall contain all of the following provisions:

(a) The amount and terms of payments to be provided under this article.

(b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying dwelling units within the rental housing development.

(c) A description of the rental housing development, projected rent levels for all units, and the number of units to be occupied by eligible households.

(d) A requirement for periodic reports by the local public entity, which shall at a minimum include information on the fiscal condition of the rental housing development, the maintenance of the development, and the number of units occupied by eligible households.

(e) The terms of the regulatory agreement to be entered into between the sponsor and the local public entity pursuant to Section 50757 after the department's approval.

(f) Standards which govern selection of tenants by housing sponsors to ensure occupancy by eligible households consistent with the requirements of Sections 50736 and 50739 and the terms of occupancy agreements to be used in rental housing developments.

(g) Provisions sufficient to ensure that dwelling units shall be available to, or occupied by, eligible households for a period of not less than 30 years.

(h) Provisions which specify the timing and manner in which payments are made by the department so as to ensure the economic feasibility of the rental housing development and to protect the interests of the state.

(i) A provision which specifies the conditions under which the department and any intended beneficiary may enforce the regulatory agreement.

(j) A provision that failure to operate the assisted units in accordance with the regulatory agreement shall be deemed a violation of the regulatory agreement or deed of trust, as the case may be. In the alternative, or in addition, the agreement may contain a lien on the rental housing development for the purpose of securing performance of the agreement. That lien shall include a legal description of the assisted real property which is subject to the lien and shall specify the duration of the lien on the assisted property.

(k) Provisions necessary for the administration, disbursement, and protection of annuity fund payments, including provisions specifying the conditions under which the department may recover or reallocate all or any part of those payments for the benefit of eligible households in additional or existing assisted units.

(*l*) Provisions that do both of the following:

(1) Govern the recovery and reallocation by the department of rent revenues, derived by the sponsor from the assisted units which are not necessary to defray costs of operation attributable to the units.

(2) Specify the allowable return on the sponsor's investment.

Those rent revenues shall be handled by the department in the same manner as annuity payments recovered pursuant to subdivision (k).

(m) Authorization for the local public entity to fix and alter rents pursuant to subdivision (a) of Section 50759.

(n) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

SEC. 5. Section 50757 of the Health and Safety Code is amended to read:

50757. Any rental housing development assisted pursuant to this article shall be governed by a regulatory agreement between the sponsor and the local public entity. The regulatory agreements shall contain all of the following:

(a) Restrictions on occupancy of the dwelling units within the rental housing development necessary to meet the requirements of Sections 50736 and 50739.

(b) A requirement that all contractors and subcontractors use affirmative action in hiring.

(c) Provisions implementing the terms of tenant selection standards and occupancy agreements.

(d) Provisions necessary for the administration and protection of annuity funds established pursuant to Section 50748 and for recapture and reallocation of annuity fund payments and rent revenues pursuant to subdivisions (k) and (*l*) of Section 50756.

(e) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

SEC. 6. Section 50758 of the Health and Safety Code is amended to read:

50758. With respect to units for which a local public entity has obtained a leasehold or right of occupancy, the local public entity may manage the units or may contract for management of the units with the housing sponsor or other persons designated by the local public entity, with the approval of the department.

SEC. 7. Section 50759 of the Health and Safety Code is amended to read:

50759. With respect to housing units developed pursuant to this article, the local public entity shall do all of the following:

(a) Fix and alter from time to time a schedule of rents necessary to permit occupancy of the units by eligible households. The rents on the units shall not exceed the costs of maintenance, management, and operation, property taxes, and where applicable, utilities. No housing sponsor shall increase the rent without the prior permission of the local public entity which shall be given only if the sponsor affirmatively demonstrates that the increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development.

Prior to the time any rent increase is effective, the housing sponsor or local public entity shall notify every affected tenant, in writing, of, informal meetings with the housing sponsor or local public entity to

review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the local public entity pursuant to this subdivision. In the event that the local public entity does not act upon a request for a rent increase within 60 days from documented receipt of the request, the increase shall be deemed approved. Thirty days' notice of any rent increase shall be given in writing.

(b) Determine standards for, and ensure fair procedures for, the selection of tenants by housing sponsors or other management designated pursuant to Section 50758 to ensure occupancy by eligible households consistent with the requirements of Sections 50736 and 50739.

(c) Regulate the terms of tenant occupancy agreements.

SEC. 8. Section 50760 of the Health and Safety Code is amended to read:

50760. With respect to units developed pursuant to this article, the local public entity may, and at the direction of the department shall, do any of the following:

(a) Through its agents or employees enter upon and inspect the lands, buildings, equipment, and books and records of the rental housing development at any time before, during, or after construction of the units assisted pursuant to this article. Entry or inspection of any occupied unit is subject to Section 1954 of the Civil Code.

(b) Supervise the operation and maintenance of any housing assisted pursuant to this section and order any repairs necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

CHAPTER 376

An act to add Article 10 (commencing with Section 10285) to Chapter 1 of Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Article 10 (commencing with Section 10285) is added to Chapter 1 of Part 2 of Division 2 of the Public Contract Code, to read:

Article 10. Ineligibility to Contract

10285. The term "person," as used in this article, means any individual, partnership, joint venture, or association or any other

organization or any combination thereof.

10285.1. Any state agency may suspend, for a period of up to three years from the date of conviction, any person from bidding upon, or being awarded, a public works or services contract with the agency under this part or from being a subcontractor at any tier upon the contract, if that person, or any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, has been convicted by a court of competent jurisdiction of any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Section 1101, with any public entity, as defined in Section 1100, including, for the purposes of this article, the Regents of the University of California or the Trustees of the California State University. A state agency may determine the eligibility of any person to enter into a contract under this article by requiring the person to submit a statement under penalty of perjury declaring that neither the person nor any subcontractor to be engaged by the person has been convicted of any of the offenses referred to in this section within the preceding three years.

10285.2. Before suspending any person under this article, the state agency shall provide a hearing upon reasonable notice. In determining whether to suspend, and the duration of any suspension, the state agency shall consider, in addition to any other relevant factors, both of the following:

(a) The degree to which the person cooperated with the state or federal authorities in the criminal proceeding.

(b) The degree to which the person has agreed to restitution for any damages incurred by the public entity as a result of the acts upon which the conviction was based.

10285.3. In the event that any state agency has suspended any person under this article, any other state agency shall adopt the terms of that suspension without further notice or hearing.

10285.4. In the event that any state agency has suspended any person under this article, that agency may terminate the suspension if it determines that termination is in the best interest of the agency. In the event of termination, any suspension by adoption pursuant to Section 10285.3 also shall be terminated.

10285.5. Nothing in this article shall require any state agency to contract with, or to permit the employment of a person as a subcontractor, or any person on any project funded in whole or part by federal funds, if the person has been suspended or debarred by the federal agency providing the funds.

CHAPTER 377

An act to add Sections 1052.5 and 7149.1 to the Fish and Game Code, relating to fish and game.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 1052.5 is added to the Fish and Game Code, to read:

1052.5. Any stamp issued pursuant to this article is not valid unless affixed to the appropriate license document.

SEC. 2. Section 7149.1 is added to the Fish and Game Code, to read:

7149.1. (a) A person holding a valid resident sport ocean fishing license issued under subdivision (b) of Section 7149 may upgrade this license to a resident sportfishing license as described in subdivision (a) of Section 7149 by obtaining a resident sportfishing license upgrade stamp.

(b) The department shall issue a resident sportfishing license upgrade stamp upon payment of the fee and handling charge for that stamp. The upgrade stamp fee shall be equal to the difference in the fee determined under subdivision (a) of Section 7149 and the fee determined under subdivision (b) of Section 7149. The handling charge for a resident sportfishing license upgrade stamp is the amount determined by the department, not to exceed fifty cents ($0.50).

(c) A person may apply for a resident sportfishing license upgrade stamp under subdivision (b) only by mail to, or in person at, an office of the department.

CHAPTER 378

An act to amend Sections 911, 5320, 5813.5, 7313, 7813.5, 9621, 12452, and 12504 of the Corporations Code, relating to corporations.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 911 of the Corporations Code is amended to read:

911. (a) A corporation may, by amendment of its articles pursuant to this section, convert to a nonprofit public benefit corporation, nonprofit mutual benefit corporation, nonprofit

religious corporation, or cooperative corporation.

(b) The amendment of the articles to convert to a nonprofit corporation shall revise the statement of purpose, delete the authorization for shares and any other provisions relating to authorized or issued shares, make such other changes as may be necessary or desired, and, if any shares have been issued, provide either for the cancellation of those shares or for the conversion of those shares to memberships of the nonprofit corporation. The amendment of the articles to convert to a cooperative corporation shall revise the statement of purpose, make such other changes as may be necessary or desired, and, if any shares have been issued, provide for the cancellation of those shares or for the conversion of those shares to memberships of the cooperative corporation, if necessary.

(c) If shares have been issued, an amendment to convert to a nonprofit corporation shall be approved by all of the outstanding shares of all classes regardless of limitations or restrictions on the voting rights thereof and an amendment to convert to a cooperative corporation shall be approved by the outstanding shares (Section 152) of each class regardless of limitations or restrictions on the voting rights thereof.

(d) If an amendment pursuant to this section is included in a merger agreement, the provisions of this section apply, except that any provision for cancellation or conversion of shares shall be in the merger agreement rather than in the amendment of the articles.

SEC. 2. Section 5320 of the Corporations Code is amended to read:

5320. (a) Subject to Section 5613 and unless otherwise provided in the corporation's articles or bylaws:

(1) No member may transfer a membership or any right arising therefrom.

(2) All rights of membership cease upon the member's death or dissolution.

(b) Notwithstanding subdivision (a), no member may transfer for value a membership or any right arising therefrom.

SEC. 3. Section 5813.5 of the Corporations Code is amended to read:

5813.5. (a) A public benefit corporation may amend its articles to change its status to that of a mutual benefit corporation, a religious corporation, a business corporation, or a cooperative corporation by complying with this section and the other sections of this chapter.

(b) If the public benefit corporation has any assets, an amendment to change its status to a mutual benefit corporation, business corporation, or cooperative corporation shall be approved in advance in writing by the Attorney General. If the public benefit corporation has no assets, the Attorney General shall be given a copy of the amendment at least 20 days before such amendment is filed.

(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 statment has been filed pursuant to Section 6210), and may in addition only include those provisions which would have been permitted, in original articles filed by the type of corporation (mutual benefit, religious, business, or cooperative) into which the public benefit corporation is changing its status.

(d) In the case of a change of status to a mutual benefit corporation, business corporation, or cooperative corporation, if the Franchise Tax Board has issued a determination exempting the corporation from tax as provided in Section 23701 of the Revenue and Taxation Code, the corporation shall be subject to Section 23221 of the Revenue and Taxation Code upon filing the certificate of amendment.

SEC. 4. Section 7313 of the Corporations Code is amended to read:

7313. (a) A corporation may, but is not required to, issue membership certificates. 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) Membership certificates issued by corporations shall state the following on the certificate:

(1) The corporation is a nonprofit mutual benefit corporation which may not make distributions to its members except upon dissolution, or, if the articles or bylaws so provide, that it may not make distributions to its members during its life or upon dissolution.

(2) If there are restrictions upon the transferability, a statement that a copy of the restrictions are on file with the secretary of the corporation and are open for inspection by a member on the same basis as the records of the corporation.

(c) If the membership certificates are transferable only with consent of the corporation, or if there are no membership certificates, then instead of complying with paragraph (2) of subdivision (b) the corporation may, or if there are no membership certificates, shall, give notice to the transferee, within a reasonable time after the corporation is first notified of the proposed transfer, and before the membership is transferred on the books and records of the corporation, of the information that would otherwise be provided by the legends required by paragraph (2) of subdivision (b).

(d) If the articles or bylaws are amended so that any statement required by subdivision (b) upon outstanding membership certificates is no longer accurate, then the board may cancel the outstanding certificates and issue in their place new certificates conforming to the articles or bylaw amendments.

(e) Where new membership certificates are issued in accordance with subdivision (d), 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 a certificate so ordered to be surrendered shall not be entitled to exercise any of the rights of membership until the certificate is surrendered and exchanged, but rights shall be suspended only after notice of such order is given to the holder of the certificate and only until the certificate is exchanged. The duty of surrender of any outstanding certificates may also be enforced by civil action.

SEC. 5. Section 7813.5 of the Corporations Code is amended to read:

7813.5. (a) A mutual benefit corporation may amend its articles to change its status to that of a public benefit corporation, a religious corporation, a business corporation, or a cooperative corporation by complying with this section and the other sections of this chapter.

(b) Except as authorized by Section 7811 or unless the corporation has no members, an amendment to change its status to a public benefit corporation or religious corporation shall: (i) be approved by the members (Section 5034), and the fairness of the amendment to the members shall be approved by the Commissioner of Corporations pursuant to Section 25142; (ii) be approved by the members (Section 5034) in an election conducted by written ballot pursuant to Section 7513 in which no negative votes are cast; or (iii) 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 8210), 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, business, or cooperative) into which the mutual benefit 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.

(e) In the case of a change of status to a business corporation or a cooperative corporation, if the Franchise Tax Board has issued a determination exempting the corporation from tax as provided in Section 23701 of the Revenue and Taxation Code, the corporation shall be subject to Section 23221 of the Revenue and Taxation Code upon filing the certificate of amendment.

SEC. 6. Section 9621 of the Corporations Code is amended to read:

9621. (a) A religious corporation may amend its articles to change its status to that of (1), a public benefit corporation, by complying with this section and the other sections of Chapter 8 (commencing with Section 5810) of Part 2 (made applicable pursuant to Section 9620) or (2), a mutual benefit corporation, business corporation, or cooperative corporation by complying with Chapter 8 (commencing with Section 5810) of Part 2.

(b) 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 6210, made applicable pursuant to Section 9660) and may in addition only include those provisions which would have been permitted, in original articles filed by the type of corporation (public benefit, mutual benefit, business, or cooperative) into which the religious corporation is changing its status.

SEC. 7. Section 12452 of the Corporations Code is amended to read:

12452. A corporation may, subject to meeting the requirements of Section 12453 and any additional restrictions authorized by Section 12454, purchase or redeem memberships.

SEC. 8. Section 12504 of the Corporations Code is amended to read:

12504. (a) A corporation may amend its articles to change its status to that of a nonprofit public benefit corporation, a nonprofit mutual benefit corporation, a nonprofit religious corporation, or a business corporation by complying with this section and the other sections of this chapter.

(b) Except as authorized by Section 12501 or unless the corporation has no members, an amendment to change its status to a nonprofit public benefit corporation or a nonprofit 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 the members (Section 12224) in an election conducted by written ballot pursuant to Section 12463 in which no negative votes are cast; or (3) 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 (nonprofit public benefit, nonprofit mutual benefit, nonprofit religious, or business) into which the corporation is changing its status.

(d) At the time of filing a certificate of amendment to change status to a nonprofit 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.

CHAPTER 379

An act to amend Sections 4721, 4722, and 4723 of, and to add Sections 196.5 and 4728.5 to, the Civil Code, and to amend Section 6 of Chapter 1605 of the Statutes of 1984, relating to parent and child, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 196.5 is added to the Civil Code, to read:

196.5. The duty imposed by Section 196 shall continue to exist as to any unmarried child who has attained the age of 18, is a full-time high school student, and resides with a parent, until such time as he or she completes the 12th grade or attains the age of 19, whichever first occurs. This obligation may be enforced in the manner described in Section 196a.

This section does not apply to support agreements made or judgments entered before March 4, 1972. Nothing in this section shall be interpreted so as to limit a parent's ability to agree to provide additional support or to limit the court's power to inquire whether such an agreement has been made.

SEC. 2. Section 4721 of the Civil Code is amended to read:

4721. In determining the ability of parents to pay the mandatory minimum child support award and to calculate the actual monthly payments to be made by each parent, all of the following provisions apply:

(a) The annual gross income of each parent shall be determined and then adjusted to obtain the annual net disposable income. To determine and apportion the mandatory minimum child support award, as defined in Section 4722, the court shall also consider, to the extent consistent with the best interests of the child or children, the earning capacity of either or both parents. The annual gross income means income from whatever source derived, except as specified in subdivision (b), and includes, but is not limited to, all of the following:

(1) Income such as commissions, salaries, royalties, wages, bonuses, rents, dividends, pensions, interest, trust income, annuities, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, and spousal support actually received from a person not a party to the order.

(2) Income from the proprietorship of a business, such as gross receipts from the business reduced by expenditures required for the operation of the business.

(3) To the extent that income derived from paragraphs (1) and (2) is insufficient to produce a mandatory minimum child support award at the AFDC standard for the same number of children, upon

the request of either party, the court may consider investment assets of either or both parties which could be liquidated. To determine and apportion the mandatory minimum child support award at the AFDC level, the court shall also consider, to the extent consistent with the best interests of all of the children, the earning capacity of either or both parents.

(b) Annual gross income shall not include any income derived from child support payments actually received and income derived from any public assistance program, eligibility for which is based on a determination of need.

(c) The annual net disposable income of each parent shall be computed by deducting from his or her annual gross income the actual amounts attributable only to the following items, after which the remainder shall be adjusted to reflect the monthly net disposable income of each parent:

(1) The state and federal income taxes attributed to the parent. Federal and state income tax deductions shall bear an accurate relationship to the tax status of the parties (that is, single, married, married filing separately, or head of household) and number of dependents.

(2) Deductions attributed to the employee's contribution or the self-employed worker's contribution pursuant to the Federal Insurance Contributions Act (FICA), or an amount not to exceed that allowed under FICA for persons not subject to FICA, provided that the deducted amount is used to secure retirement or disability benefits for the parent.

(3) Deductions for mandatory union dues and retirement benefits, provided that they are required as a condition of employment.

(4) Deductions for health insurance premiums and state disability insurance premiums.

(5) Any child or spousal support actually being paid by the parent pursuant to a court order, to or for the benefit of any person who is not a subject of the award to be established by the court.

(d) For the purposes of verifying total gross income and amounts allowed for deductions, copies of the parents' state income tax returns for the previous two years, copies of present wage stubs, and any other relevant documents shall be subject to discovery by the parties. Further, the court may require copies of the parents' tax returns for the previous two years, copies of present wage stubs, and such other documentation as it may deem necessary, including a current income and expense declaration in the form prescribed by the Judicial Council for family law matters.

(e) For the purpose of determining the parent's annual gross income, in calculating the mandatory minimum child support award, the court shall not include any portion of the earned income and income derived from the separate property of the current spouse or the nonmarital partner of either parent. This requirement does not apply to a child support obligation arising from the marriage

between the obligated parents.

(f) The court shall inquire of each party as to the total number of minor children he or she is legally obligated to support.

SEC. 3. Section 4722 of the Civil Code is amended to read:

4722. (a) The standard established pursuant to Section 11452 of the Welfare and Institutions Code, as adjusted by Section 11453 of the Welfare and Institutions Code, establishes a minimum family support level based on the number of eligible needy persons in the family.

(b) Each parent's ability to pay a minimum mandatory amount of child support, whether for a temporary or a permanent order, shall be determined in accord with the standards established by Section 11452 of the Welfare and Institutions Code, and prior to the computation of the spousal support liability, as follows:

(1) The combined monthly net disposable income of both parents shall be multiplied by the following percentage factors: 18 percent for one child; 27 percent for two children; 36 percent for three children; 40 percent for four children; and an additional four percent for each child thereafter, up to a total of 10 children.

(2) If the resulting amount is less than the AFDC standard for the number of children involved, the court shall find that the parents are unable to pay at the level of the children's portion of the AFDC standard and shall set a minimum award according to the actual combined net income and the percentages set forth above.

(3) If the resulting amount is at, or greater than, the AFDC standard for the same number of children, the court shall order a minimum award that equals the AFDC standard.

(c) The AFDC standard for the number of children to be supported shall be the minimum basic standard of adequate care specified in Section 11452 of the Welfare and Institutions Code, as in effect July 21, 1983, annually adjusted pursuant to Section 11453 of the Welfare and Institutions Code, for the number of children to be supported.

(d) The amount each parent shall contribute to the mandatory minimum award shall be determined by multiplying the minimum award by the proportionate share of each parent's contribution to their combined net disposable income.

(e) If more than 10 minor children are to be supported, the minimum award shall be the same as for 10 children.

(f) The award set pursuant to this chapter is the mandatory minimum child support award.

(g) The formula established by this section is represented algebraically as follows:

WHERE:

MB = Minimum base

$$P = \text{percent} = \frac{NCN}{NCN + CN}$$

NCN = noncustodial spouse net income

CN = custodial spouse net income

F = factor (.18 for one child, .27 for two, .36 for three, and .04 for each additional child over three children)
S = the AFDC needs standard for the appropriate number of children to be supported by this order
Y = yield

Then calculation of the minimum support is as follows:

Step 1: F x (CN+NCN) = Y
Step 2: If $Y \geq S$, MB = S
If $Y < S$, MB = Y
Step 3: MB x P = portion of award to be paid by noncustodial spouse.

(h) The formula delineated in this section shall be used only for calculations made under this section for the establishment of a minimum level of child support. Nothing in this section shall be construed to affect the duty or ability of any public agency pursuant to any other provision of law to secure or bring suit for reimbursement of AFDC public assistance paid to a family unit, eligible therefor under the applicable provisions of law, in an amount not to exceed the total amount of aid actually paid.

SEC. 4. Section 4723 of the Civil Code is amended to read:

4723. The mandatory minimum child support award established pursuant to this chapter is intended to assure adequate basic living expenses, including food, shelter, and clothing, for the supported children. The court shall not assume that any other costs related to the rearing of children are provided within the mandatory minimum award. Child care expenses, special educational expenses, expenses for special medical, dental, or mental health needs, and expenses related to any other special needs of the children are not provided for in the mandatory minimum child support award. These expenses shall be considered by the court in making an award in addition to the child support obligation determined pursuant to Section 4722 or pursuant to the discretionary guidelines in use in the county if those guidelines meet the criteria specified in subdivision (a) of Section 4724. These additional awards may be made in separate orders by the court.

SEC. 5. Section 4728.5 is added to the Civil Code, to read:

4728.5. In ordering payment of the temporary or permanent awards determined under this chapter, the court may consider as payment a portion of the rental value of the family residence in which the children for the support of whom the award was made are allowed to reside, to the extent that it exceeds the mortgage payments, homeowner's insurance, and property taxes.

SEC. 6. Section 6 of Chapter 1605 of the Statutes of 1984 is amended to read:

Sec. 6. (a) The Judicial Council shall develop and promulgate forms and tables necessary to implement the provisions of this act, together with instructions for their usage, for the use of the courts

and private citizens, by July 1, 1985. The tables developed implementing the formula contained in subdivision (g) of Section 4722 of the Civil Code shall be expressed in fifty dollar ($50) income increments and described as the portion of the mandatory minimum for which the noncustodial parent is responsible. The informational materials required by Section 4729 of the Civil Code shall be prepared and published by July 1, 1985.

(b) The instructions for use shall include directions for the completion of the form required by Section 4726 of the Civil Code. Further, the instructions shall clearly and simply instruct the court to establish child support awards in all judgments occurring after June 30, 1985, in the following manner:

Step 1: Determine the net income of each party pursuant to Section 4721 of the Civil Code.

Step 2: Using the discretionary schedules in use in the county, arrive at the appropriate award level. If the award is to be presented at that level or above, proceed to Step 4. If the court wishes to state an award lower than that derived from the discretionary schedule, go to Step 3. Discretionary schedules shall meet the standards set in Section 4724 of the Civil Code.

Step 3: Enter the reasons for setting a level of child support lower than the discretionary guidelines on the record. Compute the mandatory minimum child support award pursuant to Section 4722 of the Civil Code, as modified by Sections 4725 and 4727 of the Civil Code where applicable, and enter an award no lower than this amount.

Step 4: Review the case for eligibility for a supplemental award pursuant to Section 4723 of the Civil Code.

Step 5: Review the case for eligibility for a spousal support award, as appropriate.

(c) The instructions adopted pursuant to subdivision (b) are not applicable to any case in which a stipulated agreement has been entered into, so long as the requirements for such an agreement set forth in Section 4728 of the Civil Code have been fully met. The instructions shall contain a statement expressing this prohibition.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for this act to achieve maximum implementation, it is necessary that it take effect at the earliest date possible.

CHAPTER 380

An act to amend Section 23 of, and to add Sections 5009 and 5010 to, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 23 of the Food and Agricultural Code is amended to read:

23. (a) Inasmuch as the planned production of trees, vines, rose bushes, ornamental plants and other horticultural crops is distinguishable from the production of other products of the soil only in relation to the time elapsing before maturity, plants which are being produced by nurseries shall be considered to be "growing agricultural crops" for the purpose of any laws which pertain to the agricultural industry of the state.

(b) For the reasons stated in subdivision (a), a nursery where the primary activity is the planned production of horticultural crops, is a farm. However, for the purposes of this section and any laws which pertain to farms in this state, a retail nursery is not a farm.

SEC. 2. Section 5009 is added to the Food and Agricultural Code, to read:

5009. "Horticultural product" means those products as stated in Group Number 18 of the Standard Industrial Classification Manual which are grown under cover or outdoors, including bulbs, flowers, shrubbery, florist greens, fruit stock, floral products, nursery stock, ornamental plants, potted plants, roses, seed, sod, fruits, food crops grown in greenhouses, vegetables, and horticultural specialties not otherwise specified.

SEC. 3. Section 5010 is added to the Food and Agricultural Code, to read:

5010. Agricultural or farm products include any horticultural product.

CHAPTER 381

An act to repeal and add Section 10086 of the Business and Professions Code, relating to real estate.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 10086 of the Business and Professions Code is repealed.

SEC. 2. Section 10086 is added to the Business and Professions Code, to read:

10086. (a) If the commissioner determines through an investigation that a person has engaged or is engaging in an activity which is a violation of a provision of this part, other than a provision of Article 8 (commencing with Section 10249) of Chapter 3, or which is a violation of a regulation of the commissioner adopted for the purpose of implementing any provision of this part, other than a regulation adopted pursuant to a provision of Article 8 (commencing with Section 10249) of Chapter 3, the commissioner may direct the person to desist and refrain from such activity by issuance of an order specifying the nature of the activity and the factual and legal basis for his or her determination. The respondent to whom the order is directed shall immediately, upon receipt of the order, cease the activity described in the order.

(b) The respondent may, within 30 days after service of the order to desist and refrain, file a request for a hearing. If, with the request for hearing, the respondent also files a written verification that the order of the commissioner precludes him or her from further engaging in a substantial proportion of his or her business, the commissioner shall, within 10 days thereafter, file an action in superior court to restrain the respondent from continuing the activity or doing any act in furtherance thereof pending the completion of a hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

If the commissioner fails to bring the action in superior court within the time prescribed by this section, or if the court refuses to restrain the respondent pending the decision of the commissioner following the administrative hearing, the respondent may resume the activities in question pending the rendering of the decision of the commissioner following the administrative hearing.

(c) The administrative hearing shall be commenced by the commissioner within 30 days after receipt of respondent's request unless the respondent agrees to a postponement. If the hearing is not commenced within 30 days after receipt of respondent's request or on the date to which continued with respondent's consent, or if the commissioner does not render a decision within 15 days after receipt of the proposed decision following the hearing, the order shall be deemed rescinded.

(d) The provisions of Section 11019, and not the provisions of this section, shall apply in the case of an activity which the commissioner determines to be in violation of Article 8 (commencing with Section 10249) of Chapter 3 or of a regulation of the commissioner for implementation of any provision of that article.

CHAPTER 382

An act to amend Section 56368 of, and to add Section 56368.5 to, the Government Code, and to amend Sections 32121 and 32130 of the Health and Safety Code, relating to hospital districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 56368 of the Government Code is amended to read:

56368. In any resolution ordering the dissolution of a district where a finding has been made pursuant to subdivision (a), (c), or (d) of Section 56367, the board of supervisors may order the dissolution either without election, except as otherwise provided in Section 56368.5, or subject to confirmation by the voters upon the question of the dissolution. In all other cases, the resolution shall order the dissolution subject to confirmation by the voters upon the question of the dissolution.

SEC. 2. Section 56368.5 is added to the Government Code, to read:

56368.5. Any order in any resolution adopted by the board of supervisors on or after January 1, 1986, ordering the dissolution of a local hospital district, organized pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, is subject to confirmation by the voters.

SEC. 3. 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 the 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 the 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 legal advice and assistance.

(g) To employ any 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 hospitals of the district; to establish offices as may be appropriate and to appoint board members or employees to those offices; to determine the number of, and appoint, all officers and employees, and to fix their compensation. The officers and employees shall hold their offices or positions at the pleasure of the boards of directors.

(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 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 with or without consideration, any part of its assets to one or more nonprofit corporations to operate and maintain the assets for the benefit of the communities served by the district. The initial members of the board of directors of the nonprofit corporation or corporations shall be approved by the board of directors of the hospital district and shall be residents of the district. This subdivision does not invalidate or affect any transfers made prior to March 1, 1985, pursuant to this subdivision.

SEC. 4. Section 32130 of the Health and Safety Code is amended to read:

32130. A district may borrow money and incur indebtedness

pursuant to the authority contained in Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840), Article 7.6 (commencing with Section 53850), and Article 7.7 (commencing with Section 53859) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 5. (a) The Legislature finds that the board of directors of one or more local hospital districts, including the Board of Directors of the Mt. Diablo Hospital District, organized pursuant to the Local Hospital District Law, Division 23 (commencing with Section 32000) of the Health and Safety Code, have transferred all of the assets of the districts to nonprofit corporations and declared their intention to dissolve the hospital districts.

The Legislature finds and declares that it has expanded and revised the statutes governing local hospital districts in recent years in order to permit those districts to remain competitive in the ever changing health care environment, including among other changes, the addition of subdivision (p) to Section 32121 of the Health and Safety Code by Chapter 1594 of the Statutes of 1982 and the further amendment of that provision by Chapter 836 of the Statutes of 1983. The Legislature declares that the purpose of the latter provision was to permit a local hospital district to transfer its assets to a nonprofit corporation for the nonprofit corporation to operate and maintain for the benefit of the hospital district. The Legislature declares that it did not intend to permit the board of directors of a local hospital district to transfer all of its assets to a nonprofit corporation, without consideration, and then to dissolve the district. Instead, the Legislature intended for the board of directors of hospital districts to continue to govern the affairs of the districts; to maintain control over the activities of the nonprofit corporations to the extent permitted by any transfer agreement; and to exercise influence, to the extent possible, over the members of the board of directors of the nonprofit corporations who the Legislature required to be appointed by the hospital district board of directors.

(b) The Legislature declares that the agreement entered into by the Board of Directors of the Mt. Diablo Hospital District, whereby the board of directors agreed to transfer all of the assets of the district to a nonprofit corporation and to dissolve the district, exceeded its statutory authority . Therefore, the Legislature declares the agreement entitled "Agreement for Reorganization of Mt. Diablo Hospital Medical Center" between the Mt. Diablo Hospital District and the Mt. Diablo Hospital Medical Center, Inc., to be null and void unless all of the following occur:

(1) The Board of Directors of the Mt. Diablo Hospital District and Mt. Diablo Hospital Medical Center, Inc., rescind, on or before August 15, 1985, the agreement entitled "Agreement for Reorganization of Mt. Diablo Hospital Medical Center."

(2) Mt. Diablo Hospital Medical Center, Inc., transfers, assigns, conveys, and delivers to Mt. Diablo Hospital District on or before August 15, 1985, all of the assets transferred, assigned, conveyed, and

delivered by the district to the medical center.

(3) (A) The Board of Directors of Mt. Diablo Hospital District requests the Board of Supervisors of Contra Costa County to call a special election to be held November 5, 1985, in which case the board of supervisors shall call a special election to be held on that date, at which election the following question shall be submitted to the voters of the district:

"Shall the Mt. Diablo Hospital District be dissolved and shall the board of directors of the district be authorized to transfer all of the assets of the district to a nonprofit public benefit corporation to be held in public trust?"

(B) The expense of conducting the special election shall be borne by the Mt. Diablo Hospital District. The election shall be conducted, insofar as is practicable, as determined by the county clerk, in accordance with Chapter 4 (commencing with Section 56100) of Part 1 of Division 1 of Title 6 of the Government Code.

(4) (A) Neither the Board of Supervisors of Contra Costa County nor the Contra Costa County Local Agency Formation Commission shall have any authority, power, or duty to review and approve or disapprove with or without amendment, wholly, partially, or conditionally the proposal to dissolve Mt. Diablo Hospital District.

(B) If a majority of the voters voting on the issue vote in favor of dissolving the Mt. Diablo Hospital District, the district is dissolved and the assets shall be transferred to a nonprofit public benefit corporation to be held in public trust by that corporation for the benefit of the residents who reside within the territory included within the district at the time of the dissolution of the district. The nonprofit public benefit corporation is not limited to providing health care services within the former territorial limits of the district.

If the voters approve the dissolution of the district, the board of directors of the district shall have all of the following powers necessary to dissolve and wind up the affairs of the district:

(i) To employ agents and attorneys to liquidate or wind up its affairs.

(ii) To continue the conduct of the affairs of the district insofar as necessary for the disposal or winding up of those affairs.

(iii) To carry out contracts and collect, pay, compromise, and settle debts and claims for or against the district.

(iv) To defend suits brought against the district.

(v) To sue, in the name of the district, for all sums due or owing to the district or to recover any of its property.

(vi) In general, to make contracts and to do any and all things in the name of the district which may be proper or convenient for the purposes of winding up, settling, and liquidating the affairs of the district.

(C) If less than a majority of the voters voting on the issue vote in favor of dissolving the Mt. Diablo Hospital District, the board of directors of the district shall continue to govern the district in accordance with the Local Hospital District Law, Division 23

(commencing with Section 32000) of the Health and Safety Code.

(5) Any nonprofit public benefit corporation to which the assets of the Mt. Diablo Hospital District are transferred by the district shall hold those assets in a public trust and the corporation shall adopt a bylaw concurrently with the transfer of those assets requiring that, upon the winding up and dissolution of the nonprofit corporation, all of the assets of the corporation which remain after the satisfaction of all debts and liabilities against the corporation shall be distributed in the same manner as would have been required by Section 56507 of the Government Code and in accordance with Section 6713 of the Corporations Code had the district been dissolved on the effective date of this act.

(c) The board of directors, officers, agents, employees, or shareholders of the Mt. Diablo Hospital District and the Mt. Diablo Hospital Medical Center, Inc., are not liable for any actions taken in good faith pursuant to the agreement entitled "Agreement for Reorganization of Mt. Diablo Hospital Medical Center."

SEC. 6. The Legislature finds and declares that a general statute, within the meaning of Section 16 of Article IV of the Constitution, cannot be made applicable to the unique problems that Section 5 of this act is intended to remedy, and that, therefore, this special statute is necessary.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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. 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 clarify the statutory authority of local hospital districts to transfer the assets of the districts to nonprofit corporations and to make other statutory changes relating to the governance and financial affairs of local hospital districts as soon as possible, this act must take effect immediately.

CHAPTER 383

An act to amend Section 6895 of the Public Resources Code, relating to public lands.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 6895 of the Public Resources Code is amended to read:

6895. Upon establishing to the satisfaction of the commission that commercially valuable deposits of minerals have been discovered within the limits of any permit, the permittee shall be entitled to a lease for not more than 960 acres of the land included in the prospecting permit, if there is that number of acres within the permit. The area selected by the permittee shall be in compact form and, if surveyed, shall be described by the legal subdivisions of the public lands surveys; if unsurveyed, the area shall be surveyed by the commission at the expense of the applicant for the lease, in accordance with rules and regulations prescribed by the commission, and the lands leased shall be conformed to, and taken in accordance with, the legal subdivisions of the surveys. The lease shall provide for the payment of an annual rental of not less than one dollar ($1) per acre, as determined by the commission. The lease shall also provide for payment, which may be taken in kind, of either a royalty, to be taken in money or in kind, at the option of the commission, of not less than 10 percent of the gross value of all mineral production from the leased lands, less any charges approved by the commission that were made or incurred with respect to transporting or processing the state's royalty share of production, or a percentage, to be determined by the commission, of the net profits derived from mineral extraction operations under the lease. Payment as a royalty or as a percentage of net profits shall be specified in the permit. Notwithstanding the 960-acre limitation of this section, whenever the lands for which a lease is sought are tide and submerged lands, the commission may divide the lands into the size and number of parcels as the commission determines will not substantially impair the public rights to navigation and fishing or interfere with the trust upon which the lands are held.

CHAPTER 384

An act to amend Section 6873.5 of, and to repeal and add Section 6873.2 of, the Public Resources Code, relating to state lands.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 6873.2 of the Public Resources Code is repealed.

SEC. 2. Section 6873.2 is added to the Public Resources Code, to read:

6873.2. In carrying out the requirements of subdivision (b) of Section 6873 and the California Environmental Quality Act (Division 13 (commencing with Section 21000)), the commission shall, prior to leasing tide and submerged lands or the beds of navigable rivers or lakes for oil and gas, hold at least one hearing on any draft environmental impact report prepared for the proposed lease. The hearing shall be held within a city or county near the area being considered for leasing. The commission shall give at least 30 days' written notice regarding the public hearing to each city or county within or adjacent to the proposed lease area and shall publish the notice in the manner prescribed in Section 6834. The authority to hold hearings provided in this section may be delegated by the commission to its officers or employees.

SEC. 3. Section 6873.5 of the Public Resources Code is amended to read:

6873.5. (a) In carrying out the requirements of subdivision (b) of Section 6873 and the California Environmental Quality Act, the commission shall, prior to the adoption of a form of lease for leasing offshore tide and submerged lands between the mean high tide line and the three-mile jurisdictional limit, consult with the Department of Fish and Game, the National Marine Fisheries Service, and representatives of the oil industry, representatives of fishermen operating within the area being considered for leasing. The commission shall hold at least one hearing on the draft environmental document prepared for the proposed lease in a jurisdiction of a local government within the coastal zone, as defined by Section 30103, near the area being considered for leasing. The commission shall give at least 30 days' written notice regarding the public hearing to each city or county within or adjacent to the proposed lease area and shall publish the notice in the manner prescribed in Section 6834. The authority to hold hearings provided in this section may be delegated by the commission to its officers or employees.

(b) The commission shall consider the potential impacts of the proposed lease on the fisheries and marine habitat within the area being considered for leasing. The commission shall include in its consideration:

(1) The environmental document prepared for the proposed lease.

(2) Recommendations of the Department of Fish and Game, the National Marine Fisheries Service, the oil industry, and fishermen.

(3) The cooperative efforts of the oil industry and fishermen to develop plans to mitigate potential impacts.

(c) Fishery areas that should be considered for protection include established fishing grounds or critical spawning or nursery grounds as indicated by records of the Department of Fish and Game.

(d) The commission may impose terms, conditions, or operational requirements it deems necessary to protect fisheries, including, but not limited to, the exclusion of specified areas from development

activities.

(e) This section shall not be construed as a limitation on slant or directional drilling under the excluded area from any location outside an excluded fishery area.

CHAPTER 385

An act to amend Section 372 of the Streets and Highways Code, relating to state highways.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 372 of the Streets and Highways Code is amended to read:

372. Route 72 is from Route 39 to Downey Road near the City of Los Angeles, except as follows:

(a) Route 72 shall cease to be a state highway when Route 90 freeway is completed from Route 5 to Route 39.

(b) Notwithstanding subdivision (a), that portion of Route 72 from Atlantic Boulevard to Downey Road shall cease to be a state highway when the County of Los Angeles completes the reconstruction of Whittier Boulevard approximately between these two limits.

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 386

An act to amend Section 19629 of the Welfare and Institutions Code, relating to Business Enterprise Program for the Blind.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 19629 of the Welfare and Institutions Code is amended to read:

19629. (a) The department shall provide that, if any funds are set aside, or caused to be set aside, from the net proceeds of the

operation of the vending facilities such funds shall be set aside, only to the extent necessary, but not to exceed the amount equal to 6 percent of gross sales, for, and may be used only for, the following purposes:

(1) Maintenance and replacement of equipment.

(2) The purchase of new equipment.

(3) The construction of new vending facilities.

(4) Loans to vendors for initial stock.

(5) Funding the functions of the committee of blind vendors established by Section 19638.

(6) Retirement or pension funds, health insurance contributions or premiums, provision for paid sick leave or vacation time or business-related insurance, if it is so determined by a majority vote of blind vendors after the department provides to each such vendor full information on all matters relevant to such purposes.

(b) No set-aside funds shall be collected where the monthly net proceeds are less than four hundred dollars ($400). This amount shall be annually adjusted by the department to reflect changes in the cost of living subsequent to January 1, 1978. The average of the separate indices of cost of living for Los Angeles and San Francisco, as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the change in the cost of living.

(c) Set-aside funds collected from the operation of all vending facilities administered by the Business Enterprise Program shall be placed in a single special deposit fund.

(d) As used in subdivision (a) "net proceeds" shall be the sum of the amount remaining from the sale of articles or services and the amount of any vending machine or other income accruing to blind vendors after the cost of such sale and other expenses (excluding set-aside charges required to be paid by such blind vendors) have been deducted.

(e) It is the intent of the Legislature that the expenditure of such service charges as are authorized by this section shall be supplemental to and in augmentation of any current appropriations available for such purposes and shall not constitute an offset or diminution of any such appropriations.

(f) An amount equal to 6 percent of the wages paid by a vendor to any blind person, as defined in Section 19153, or to any disabled person, as defined in regulations issued by the department, shall be deducted from any service charge paid by the vendor, in order to encourage vendors to employ more blind and disabled workers and thereby set an example for industry and government. There shall be no deduction from any service charge paid by a vendor if the vendor does not pay wages at least equal to the minimum wages required of employers pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

CHAPTER 387

An act to add Section 11113.5 to the Vehicle Code, relating to driving schools.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 11113.5 is added to the Vehicle Code, to read:

11113.5. The department shall establish rules and regulations prescribing standards for the licensing and control, as provided in this chapter, of owners, operators, and instructors and the courses of driver education and driver training for driving schools providing training courses for class 1 and class 2 licensed drivers. The standards shall provide for requirements of licensing, training, and control to assure that the owners, operators, and instructors are qualified to provide the type of training needed by drivers for safe operation of large commercial vehicles on the highway.

CHAPTER 388

An act relating to fish and game, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. The sum of one hundred eighty thousand nine hundred twenty dollars and fifty cents ($180,920.50) is hereby appropriated from the General Fund to the Fish and Game Preservation Fund.

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 Fish and Game Preservation Fund may be reimbursed for expenditures made from it pursuant to Chapter 1529 of the Statutes of 1984 at the earliest possible time so that sufficient moneys are available to conduct programs funded from that fund, it is necessary that this act take effect immediately.

CHAPTER 389

An act to amend Section 48980 of the Education Code, relating to education.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 48980 of the Education Code is amended to read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall notify the parent or guardian of its minor pupils regarding the right of the parent or guardian under Sections 46014, 48205, 49403, 49423, 49451, 49472, 51240, 51550, and Article 3 (commencing with Section 56030) of Chapter 1 of Part 30.

(b) This notification shall also advise the parent or guardian of the availability of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9 of this part, and of the program of instruction required by Article 5 (commencing with Section 51260) of Chapter 2 of Part 28.

SEC. 2. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 3. 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 390

An act to amend Section 21665 of the Public Utilities Code, relating to aviation.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 21665 of the Public Utilities Code is amended to read:

21665. On its own motion the department may, or upon the

request of an affected or interested person the department shall, hold a public hearing in connection with the issuance of any airport permit, unless the department finds and determines that the issues proposed to be raised by the person have been sufficiently considered in a previous hearing held either by the department or by a local agency. Before the department issues any permit to construct or expand an airport, all public service corporations and all persons or corporations engaged in radio or television broadcasting owning facilities in the area involved shall be notified of the application and shall have 15 days after the notice in which to require the department to hold a public hearing. Notice shall also be given to any affected or interested person who has made written request therefor. The public hearing held pursuant to this section shall be held at a location in the immediate vicinity of the airport or airport site. Notice is not required when an airport permit is issued pursuant to a prior airport site approval permit.

CHAPTER 391

An act to add Sections 9607.6, 9760.5, and 9760.6 to, and to add Article 6.5 (commencing with Section 9740) to Chapter 19 of Division 3 of, the Business and Professions Code, relating to cremated remains disposers.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 9607.6 is added to the Business and Professions Code, to read:

9607.6. A cremated remains disposer is a person who, for his or her own account or for another, disposes of, or offers to dispose of, cremated human remains by scattering over or on land or sea.

SEC. 2. Article 6.5 (commencing with Section 9740) is added to Chapter 19 of Division 3 of the Business and Professions Code, to read:

Article 6.5. Cremated Remains Disposers

9740. No person shall dispose of or offer to dispose of any cremated human remains unless registered as a cremated remains disposer by the board. This article shall not apply to any person, partnership, or corporation holding a certificate of authority as a cemetery, crematory license, cemetery broker's license, cemetery salesman's license, or funeral director's license, nor shall this article apply to any person having the right to control the disposition of the cremated remains of any person or that person's designee if the

person does not dispose of or offer to dispose of more than 10 cremated human remains within any calendar year.

9741. Registration shall be on the form prescribed by the board and shall include, but not be limited to, the full name of the registrant, business and residence addresses, description and identification of aircraft or boats which may be used in dispensing cremated human remains, and the area to be served. Each registration application shall be accompanied by the cremation disperser fee.

9742. All aircraft used for the scattering of cremated human remains shall be validly certified by the Federal Aviation Administration. All boats or vessels used for the scattering of cremated human remains shall be registered with the Department of Motor Vehicles or documented by a federal agency, as appropriate. The certification or registration shall be available for inspection by the board.

9743. A cremated remains disposer who scatters any cremated human remains without specific written instructions from the person having the right to control the disposition of the remains or who scatters any remains in a manner not in accordance with those instructions shall be subject to disciplinary action.

9744. Each cremated remains disposer shall provide the person authorizing the scattering of the cremated human remains with a copy of the completed permit for disposition of human remains pursuant to Chapter 7 (commencing with Section 10375) of Division 9 of the Health and Safety Code within 60 days of the date scattering was authorized.

9745. Each cremated remains disposer shall file an annual report on a form prescribed by the board. The report shall include, but not be limited to, the number of cases handled and the area of scattering. The report shall cover the fiscal year ending on June 30th and shall be filed with the board no later than September 30th of each year.

9746. All cremated remains disposer registrations shall expire at midnight on September 30th of each year. A person desiring to renew his or her registration shall file an application for renewal on a form prescribed by the board accompanied by the required fee. The board shall not renew the registration of any person who has not filed the required annual report until he or she has filed a complete annual report with the board.

9747. If a person fails to apply for renewal of his or her cremated remains disposer registration prior to midnight of September 30th of the year for which the registration was issued, no renewal shall be issued except upon payment of an amount equal to the renewal fee plus 50 percent of the renewal fee, but not more than the renewal fee plus twenty-five dollars ($25).

9748. Any person who scatters cremated human remains without a valid registration and who is not otherwise exempt from this article shall be guilty of a misdemeanor. The remains of each person scattered shall constitute a separate violation.

9749. Any person who scatters any cremated human remains without specific written instructions from the person having the right to control the disposition of the remains or who scatters any remains in a manner not in accordance with those instructions shall be guilty of a misdemeanor.

9750. A cremated remains disposer shall be subject to and shall be disciplined by the board in accordance with Article 6 (commencing with Section 9725) of this chapter. Any violation of this article shall also be grounds for disciplinary action.

SEC. 3. Section 9760.5 is added to the Business and Professions Code, to read:

9760.5. The cremated remains disposer registration fee shall be one hundred dollars ($100).

SEC. 4. Section 9760.6 is added to the Business and Professions Code, to read:

9760.6. The renewal fee for a cremated remains disposer registration shall be fifty dollars ($50).

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 392

An act to amend Section 92107 of the Government Code, and to amend Sections 21080 and 30114 of the Public Resources Code, relating to transportation.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 92107 of the Government Code is amended to read:

92107. The commission shall, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, adopt all necessary rules and regulations to carry out its powers and duties under this title.

SEC. 2. 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 services on rail or highway rights-of-way already in use, including 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.

(c) If 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, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence before the agency that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment, but (i) revisions in the project plans or proposals made by or agreed to by the applicant before the proposed negative declaration is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects

would occur, and (ii) there is no substantial evidence before the agency that the project, as revised, may have a significant effect on the environment.

SEC. 3. 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.

(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. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

CHAPTER 393

An act to amend Sections 2795 and 3724.5 of the Public Resources Code, relating to resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 2795 of the Public Resources Code is amended to read:

2795. (a) Notwithstanding any other provision of law, the first two million dollars ($2,000,000) of moneys from mining activities on federal lands disbursed by the United States each fiscal year to this state pursuant to Section 35 of the Mineral Lands Leasing Act, as amended (30 U.S.C. Sec. 191), shall be deposited in the Surface Mining and Reclamation Account in the General Fund, which account is hereby created, and may be expended, upon

appropriation by the Legislature, for purposes of this chapter. However, if in any fiscal year, the amount of money disbursed to the state pursuant to Section 35 of the Mineral Lands Leasing Act is less than twenty million dollars ($20,000,000), then only the first one million one hundred thousand dollars ($1,100,000) of that money shall be deposited in the Surface Mining and Reclamation Account for the next fiscal year.

(b) Proposed expenditures from the account shall be included in a separate item in the Budget Bill for each fiscal year for consideration by the Legislature. Each appropriation from the account shall be subject to all of the limitations contained in the Budget Act and to all other fiscal procedures prescribed by law with respect to the expenditure of state funds.

SEC. 2. Section 3724.5 of the Public Resources Code is amended to read:

3724.5. To provide funds for the supervision of geothermal resource wells, the supervisor shall establish an annual well fee, and penalties for late payment, to be applied on an equal basis to all wells as provided under this section.

The annual well fee shall be imposed upon each producing, service, and idle well that existed at any time during the calendar year preceding the statewide fee-assessment date. However, the annual well fee shall not be imposed on any well used for observation purposes, irrespective of its depth, and any low-temperature well, including any well drilled for the purpose of filling a hot water spa or pool intended for human immersion, or any well for which the supervisor has approved suspension.

The annual well fee shall be established so that the sum of the annual well fees plus the estimated sum of those well permit fees provided in Sections 3724 and 3724.1 and pursuant to any regulation adopted under Section 3724.35 are equal to the appropriation for the supervision of geothermal resource wells as provided in the Governor's Budget. The establishment of the annual well fee shall take into account any budget adjustments for actual expenditures in the current and prior fiscal years. Any budget change proposal for support of the provisions of this chapter shall be submitted by the supervisor to geothermal operators for review and comment. A system for determining the fee and penalties and administering the fee and penalty collection shall be adopted by the supervisor by regulation after public hearing.

SEC. 3. Section 1 of this act shall become operative on July 1, 1986.

SEC. 4. The sum of three hundred sixty-three thousand dollars ($363,000) shall be transferred from the General Fund to the Surface Mining and Reclamation Account in the General Fund and appropriated from the Surface Mining and Reclamation Account to the Department of Conservation in augmentation of Item 3480-001-035 of the Budget Act of 1985 for expenditure during the 1985–86 fiscal year subject to the provisions specified in that item.

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:

It is essential that the provisions of this act pertaining to the regulation of oil and gas wells and geothermal resources wells and pertaining to funding for purposes of mining and reclamation be enacted as soon as possible. This act would also make an appropriation for an ongoing program of state government for the 1985–86 fiscal year that affects local government and the economy of various localities of the state. It is imperative that the money be available early in the 1985–86 fiscal year to maintain program continuity and to allow for an orderly planning process at both the state and local level. It is therefore necessary that this act take effect immediately.

CHAPTER 394

An act to add Section 10175.2 to the Business and Professions Code, relating to real estate.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 10175.2 is added to the Business and Professions Code, to read:

10175.2. (a) If the Real Estate Commissioner determines that the public interest and public welfare will be adequately served by permitting a real estate licensee to pay a monetary penalty to the department in lieu of an actual license suspension, the commissioner may, on the petition of the licensee, stay the execution of all or some part of the suspension on the condition that the licensee pay a monetary penalty and the further condition that the licensee incur no other cause for disciplinary action within a period of time specified by the commissioner.

(b) The commissioner may exercise the discretion granted to him under subdivision (a) either with respect to a suspension ordered by a decision after a contested hearing on an accusation against the licensee or by stipulation with the licensee after the filing of an accusation, but prior to the rendering of a decision based upon the accusation. In either case, the terms and conditions of the disciplinary action against the licensee shall be made part of a formal decision of the commissioner which satisfies the requirements of Section 11518 of the Government Code.

(c) If a licensee fails to pay the monetary penalty in accordance with the terms and conditions of the decision of the commissioner, the commissioner may, without a hearing, order the immediate

execution of all or any part of the stayed suspension in which event the licensee shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the department under the terms of the decision.

(d) The amount of the monetary penalty payable under this section shall not exceed two hundred fifty dollars ($250) for each day of suspension stayed nor a total of ten thousand dollars ($10,000) per decision regardless of the number of days of suspension stayed under the decision.

(e) Any monetary penalty received by the department pursuant to this section shall be credited to the Recovery Account of the Real Estate Fund.

CHAPTER 395

An act to amend Section 33000.5 of the Education Code, relating to the State Board of Education.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 33000.5 of the Education Code is amended to read:

33000.5. (a) Notwithstanding Sections 33000 and 33001, the Governor shall also appoint a student member to the State Board of Education, with the advice and consent of two-thirds of the Senate.

(b) Notwithstanding subdivisions (c) and (d) the incumbent student member on January 1, 1984, shall be eligible for appointment by the Governor subject to the advice and consent of two-thirds of the Senate.

(c) The term of office of the student member is one year, and shall begin on August 1. An individual may serve only one term as a student member.

(d) Notwithstanding Section 1020 of the Government Code, the student member shall be, at the time the member's one-year term commences, a student enrolled in good standing in grade 12 in a public high school. The student member shall be selected from three students recommended by the State Board of Education pursuant to subdivision (e). The student member shall be a voting member with the full rights and duties of the other 10 members of the board.

(e) The process for selecting the student member shall be as follows:

(1) The State Board of Education shall notify every school district governing board, district superintendent, high school principal, high school student activities director, and student body president by September 15 of each year that applications are being accepted for

the student member's position.

(2) Applications for the student member's position shall be submitted to the State Board of Education no later than October 31 of each year.

(3) A screening committee of the State Board of Education shall select 12 semifinalists for the student member's position.

(4) The school district governing board student members shall select six candidates from the 12 semifinalists.

(5) The State Board of Education shall, by December 31 of each year, select three finalists for the Governor's consideration and shall rank the finalists according to their preference.

(f) Nothing in this section shall be construed to require the governing board of a school district which maintains a high school to grant voting rights to a student member serving on the school district governing board.

CHAPTER 396

An act to amend Sections 11200, 11202, 11204, 11205, 11206, 11208, 11209, 11210, 11211, 11212, 11213, 11214, 11215, 11221, 11222, and 42007 of, to add Sections 626, 626.2, 626.4, 626.6, 626.8, 11202.5, and 11219.5 to, and to repeal and add Section 42005 of, the Vehicle Code, relating to schools for traffic violators, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 626 is added to the Vehicle Code, to read:

626. A "traffic violator school" is a business which for compensation provides, or offers to provide, instruction in traffic safety, including, but not limited to, classroom defensive-driver concepts, for persons referred by a court pursuant to Section 42005.

SEC. 2. Section 626.2 is added to the Vehicle Code, to read:

626.2. A "traffic violator school branch or classroom location" is any place where a traffic violator school conducts instruction or maintains records.

SEC. 3. Section 626.4 is added to the Vehicle Code, to read:

626.4. A "traffic violator school instructor" is any person who provides instruction to traffic violators on behalf of a traffic violator school.

SEC. 4. Section 626.6 is added to the Vehicle Code, to read:

626.6. A "traffic violator school operator" is the person who directs and manages the operations of a traffic violator school.

A "traffic violator school operator" may be either the traffic violator school owner or another person designated by the traffic

violator school owner to personally direct and manage the traffic violator school for the traffic violator school owner.

SEC. 5. Section 626.8 is added to the Vehicle Code, to read:

626.8. A "traffic violator school owner" is any natural person, association, or corporation that owns a traffic violator school.

SEC. 6. Section 11200 of the Vehicle Code is amended to read:

11200. The department shall license schools for traffic violators for purposes of Section 42005. No person shall own or operate a traffic violator school or, except as provided in Section 11206, give instruction for compensation in a traffic violator school without a currently valid license issued by the department.

SEC. 7. Section 11202 of the Vehicle Code is amended to read:

11202. (a) Except as provided in subdivision (c), a traffic violator school owner shall meet the following criteria before a license may be issued for the traffic violator school:

(1) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit himself or herself or another substantially, or to injure another substantially. A conviction after a plea of nolo contendere is a conviction for purposes of this paragraph.

(2) Maintain an established place of business in this state which is open to the public. No office or place of business of a traffic violator school, including any traffic violator school branch or classroom location, may be situated within 500 feet of any building used by the department as an office, or any court of law, unless the owner was established at the location on or before July 1, 1984.

(3) Conform to standards which shall be established by regulation of the department. In adopting the standards, the department shall consider those practices and instructional programs which may reasonably foster the knowledge, skills, and judgment necessary for the compliance with traffic laws. The standards may include, but are not limited to, school personnel, equipment, curriculum, procedures for the testing and evaluation of students, recordkeeping, and business practices.

(4) Except as provided in Section 11203, procure and file with the department a bond in the amount of two thousand dollars ($2,000) executed by an admitted surety and conditioned upon the applicant not practicing any fraud or making any fraudulent representation which will cause a monetary loss to a person taking instruction from the applicant.

(5) Have a classroom approved by the department and the proper equipment necessary for giving instruction to traffic violators.

(6) Have a lesson plan approved by the department. An approved lesson plan shall provide a minimum of 400 minutes of instruction, except that a lesson plan for instructing persons under the age of 18 may provide a minimum of 600 minutes of instruction.

(7) Execute and file with the department a good and sufficient instrument designating the director as agent of the applicant for the purpose of service of process, as provided in this paragraph, in any

action or actions which may thereafter be commenced against the applicant arising out of any claim for damages suffered by any firm, person, association, or corporation by reason of (A) a violation by the applicant of any of the provisions of this code committed in relation to the specifications of the applicant's traffic violator school or (B) any condition of the bond required by paragraph (4). The applicant shall stipulate and agree in the instrument that any process directed to the applicant, when personal service of process upon him or her cannot be made in this state after due diligence, may be served instead upon the director, or in the event of the director's absence from the department's principal offices, upon any employee in charge of the office of the director, and this substituted service shall be of the same legal force and effect as personal service of the applicant.

The instrument shall further stipulate and agree that the agency created by the designation shall continue for and during the period covered by the license issued pursuant to this section and so long thereafter as the applicant may be made to answer in damages for a violation of this code for which the surety may be made liable or any condition of the bond. The instrument designating the director as agent for service of process shall be acknowledged by the applicant before a notary public. In any case where the director or an employee of the department, in lieu of the director, is served with a summons and complaint on behalf of the licensee, one copy of the summons and complaint shall be left with the director or in the director's office in Sacramento or mailed to the office of the director in Sacramento. A fee of five dollars ($5) shall also be paid to the director or employee at the time of service of the copy of the summons and complaint, or shall be included with a summons and complaint served by mail. The service on the director or department employee pursuant to this section is sufficient service on the licensee if a notice of the service and a copy of the summons and complaint is, on the same business day as the service or mailing of the summons and complaint, sent by registered mail by the plaintiff or his or her attorney to the licensee. A copy of the summons and complaint shall also be mailed by the plaintiff or plaintiff's attorney to the surety on the licensee's bond at the address of the surety given in the bond, postpaid and registered with request for return receipt.

The director shall keep a record of all processes so served upon him or her, which shall show the day and hour of service, and shall retain the documents served in the department's files. Where the licensee is served with legal process by service upon the director or a department employee in lieu of the director, the licensee shall be allowed 30 days from and after the service within which to answer any complaint or other pleading which may be filed in the cause. For purposes of venue, where the licensee is served with process by service upon the director or a department employee in lieu of the director, the service shall be deemed to have been made upon the licensee in the county in which the licensee has or last had his or her

established place of business.

(b) The qualifying requirements specified in subdivision (a) shall be met within one year from the date of application for a license, or a new application and fee shall be required.

(c) Paragraphs (4) and (7) of subdivision (a) do not apply to public schools or other public agencies, which shall also not be required to post a cash deposit pursuant to Section 11203.

SEC. 8. Section 11202.5 is added to the Vehicle Code, to read:

11202.5. The department shall license traffic violator school operators. No person shall act as a traffic violator school operator without a currently valid license issued by the department. Every person in order to qualify as a traffic violator school operator shall meet all of the following criteria in order to be issued a traffic violator school operator's license:

(a) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit the person or another substantially. A conviction following a plea of nolo contendere is a conviction for purposes of this paragraph.

(b) Be a person who has not committed any act which, if the applicant were licensed as a traffic violator school operator, would be grounds for suspension or revocation of the license.

(c) Within three attempts, pass an examination as required by the department on traffic laws, safe driving practices, operation of motor vehicles, teaching methods and techniques, traffic violator school statutes and regulations, and office procedures and recordkeeping.

(d) Be 18 years of age of older.

All the qualifying requirements specified in this section shall be met within one year from the date of application for the license or the application shall lapse. However, the applicant may thereafter submit a new application upon payment of the requisite fee.

SEC. 9. Section 11204 of the Vehicle Code is amended to read:

11204. The department shall issue a license certificate to each traffic violator school owner and each traffic violator school operator licensed pursuant to this chapter. The term of the license shall be for a period of one year from the date of issue unless canceled, suspended, or revoked by the department. The license shall be renewed annually. The department shall require compliance with Section 11202 for renewal of the license of a traffic violator school owner. The department shall require compliance with Section 11202.5 for renewal of the license of a traffic violator school operator.

Where in its judgment the public interest so requires, the department may issue a probationary license subject to special conditions to be observed by the licensee in the conduct of the traffic violator school. The conditions to be attached to the license shall be such as may, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department of the information contained therein. The conditions shall not appear on the license certificate.

Upon notification of death of a traffic violator school licensee, the department may issue a temporary license to the executor or administrator of the estate of a deceased holder of a validly outstanding license to conduct a traffic violator school, or if no executor or administrator has been appointed and until a certified copy of an order making such an appointment is filed with the department, a temporary license may be issued to the surviving spouse or other heir entitled to conduct the business of the deceased. The temporary license shall permit the holder to conduct the traffic violator school for a period of one year from and after the date of the original licensee's death, and necessary one-year extensions may be granted to permit disposal of the business and qualification for a license of a purchaser of the business or the surviving spouse or heir. The department may restrict or condition a temporary license and attach to the exercise of the privilege thereunder any terms and conditions that in the department's judgment are required for the protection of the public.

SEC. 10. Section 11205 of the Vehicle Code is amended to read:

11205. The department shall publish annually, or more often as necessary to serve the purposes of this chapter, a list of all schools which are licensed pursuant to this chapter. The list may identify classroom facilities within a judicial district that are at a different location from a licensed school's principal facility. The department shall transmit a copy of the list to each justice court and each municipal court in the state. The department shall periodically revise the list so that each court may have a current list of all licensed traffic violator schools.

Except as otherwise provided in subdivision (d) of Section 42005, the court shall only use the current list of traffic violator schools published by the department when it orders a person to attend a traffic violator school pursuant to subdivision (a) or (b) of Section 42005.

SEC. 11. Section 11206 of the Vehicle Code is amended to read:

11206. The department shall license traffic violator school instructors. Except as exempted by this section, no person shall act as a traffic violator school instructor without a currently valid instructor's license issued by the department. Every person, in order to qualify as a traffic violator school instructor, shall meet all of the following requirements before an instructor's license may be issued:

(a) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit himself or another substantially, or to injure another substantially. A conviction after a plea of nolo contendere is a conviction for purposes of this section.

(b) Have a high school education.

(c) Within three attempts, pass an examination as required by the department, on traffic laws, safe driving practices, operation of motor vehicles, and teaching methods and techniques.

(d) Hold a currently valid California driver's license, which shall

not be subject to probation pursuant to Section 14250 due to the applicant being a negligent operator within the meaning of Section 12810 or 12810.5. The applicant's driving record shall not have any outstanding notice for violating a written promise to appear in court or for willfully failing to pay a lawfully imposed fine, as provided in Section 40509.

(e) Be 18 years of age or older.

All the qualifying requirements specified by this section shall be met within one year from the date of application for a license or the application shall lapse. However, the applicant may thereafter submit a new application upon payment of the requisite fee.

A license issued pursuant to this section is not required to provide instruction to traffic violators in a public school or other public educational institution by a person holding a valid teaching credential with satisfactory training or experience in the subject area, as determined by the department. Persons exempt from licensure under this section are not required to obtain a license certificate pursuant to Section 11207.

SEC. 12. Section 11208 of the Vehicle Code is amended to read:

11208. (a) Fees for issuance by the department of a license to a traffic violator school owner shall be as follows:

(1) For the original license or an ownership change which requires a new application, except as provided by Section 42231, a fee of one hundred fifty dollars ($150), with an additional fee of seventy dollars ($70) for each separate traffic violator school branch or classroom location licensed. The fee prescribed by this subdivision is nonrefundable.

(2) For annual renewal of the license for a traffic violator school and for each branch or classroom location, a fee of fifty dollars ($50).

(3) If alteration of an existing license is required by a firm name change, a change in corporate officer structure, address change, or the addition of a traffic violator school branch or classroom location, a fee of seventy dollars ($70).

(4) For replacement of the license certificate when the original license is lost, stolen, or mutilated, a fee of fifteen dollars ($15).

(b) Fees for issuance by the department of a license for a traffic violator school operator shall be as follows:

(1) For the original license a nonrefundable fee of one hundred dollars ($100).

(2) For annual renewal of the license, a fee of fifty dollars ($50).

(3) If alteration of an existing license is caused by a change in the name or location of the established principal place of business of the traffic violator school operated by the licensee, including a transfer by a licensee from one traffic violator school to another, a fee of fifteen dollars ($15).

(4) For replacement of the license certificate when the original license is lost, stolen, or mutilated, a fee of fifteen dollars ($15).

(c) Fees for issuance by the department of a license for a traffic violator school instructor shall be as follows:

(1) For the original license, except as provided by Section 42231, a nonrefundable fee of thirty dollars ($30).

(2) For the triennial renewal of a license, a fee of thirty dollars ($30).

(3) If alteration of an existing license is required by a change in the instructor's employing school's name or location, or transfer of the instructor's license to another employing school, a fee of fifteen dollars ($15).

(4) For replacement of the instructor's license certificate when the original license is lost, stolen, or mutilated, a fee of fifteen dollars ($15).

(d) The department shall charge a fee not to exceed three dollars ($3) for each completion certificate issued by a traffic violator school to each person completing instruction at the traffic violator school. The amount of the fee shall be determined by the department and shall be a fee sufficient to defray the actual costs incurred by the department for publication and distribution of lists of schools for traffic violators pursuant to Section 11205, for monitoring instruction, business practices, and records of schools for traffic violators and for any other activities deemed necessary by the department to assure high quality education for traffic violators. Upon satisfactory completion of the instruction offered by a licensed traffic violator school, the traffic violator school shall provide the student with a certificate of completion furnished by the department. A traffic violator school shall not charge a fee in excess of the fee charged by the department pursuant to this subdivision for furnishing a certificate of completion or duplicate thereof. The student shall present this certificate of completion to the court as proof of completion of instruction, and no other proof of completion of instruction may be accepted by the court.

SEC. 13. Section 11209 of the Vehicle Code is amended to read:

11209. Any traffic violator school owner, traffic violator school operator, or traffic violator school instructor required to be licensed under this chapter who fails to renew the license within 30 days after the expiration of the license may not renew that license, but may reapply for an original license pursuant to provisions of this chapter. For purposes of this section, a license that has been canceled may not be renewed and a license that is suspended or revoked may not be renewed until reinstatement or reissuance by the department. If the period of suspension or revocation extends more than 30 days beyond the expiration of a license, it may not be renewed, but the person may apply for a new license thereafter.

SEC. 14. Section 11210 of the Vehicle Code is amended to read:

11210. Pending determination by the department that an applicant for a license fully satisfies the requirements of this chapter, the department may issue a temporary permit to the applicant. A temporary permit may authorize the operation of a traffic violator school or acting as a traffic violator school operator or traffic violator school instructor for a period not to exceed 120 days while the

department is completing its investigation and determination of all facts relative to the qualifications of the applicant for the license.

The department may cancel a temporary permit when it has determined or has reasonable cause to believe that the application is incorrect or incomplete or the temporary permit was issued in error. A temporary permit is invalid upon cancellation or once the applicant has been issued or denied the license applied for.

SEC. 15. Section 11211 of the Vehicle Code is amended to read:

11211. (a) The department may refuse to issue a license to any applicant under this chapter when it is satisfied that any of the following exist:

(1) The applicant was previously the holder of a license under this chapter which was revoked or suspended.

(2) The applicant has done any act or series of acts which would be a cause for suspension or revocation of licensure under Section 11215, regardless of whether the applicant was licensed under this chapter at the time of the act or acts.

(3) If the applicant is a partnership or corporation, one or more of the limited or general partners, stockholders, directors, or officers, was the holder of a previously issued license under this chapter that was suspended or revoked; or one or more of these partners, stockholders, or officers has done any act or series of acts which would be a cause for suspension or revocation of licensure under Section 11215, regardless of whether the person was licensed under this chapter at the time of the act or acts.

(4) By reason of the facts and circumstances touching the organization, control, and management of the partnership or corporation, it is likely that both of the following will occur:

(A) The policy or operation of the business will be directed, controlled, or managed by an individual who, by reason of an act, series of acts, or conduct described in paragraphs (2) and (3), would be ineligible for a license.

(B) By licensing the corporation or partnership the purposes of this division would likely be defeated.

(5) The applicant has knowingly made a false statement or knowingly concealed a material fact in applying for a license under this chapter.

(b) Upon refusal of the department to issue a license under this chapter, the applicant shall be entitled to a hearing upon demand in writing submitted to the department within 60 days after notice of refusal. The hearing shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) A person whose license has been revoked or application for a license has been refused may reapply for the license after a period of not less than one year has elapsed from the effective date of the decision revoking the license or refusing the application.

SEC. 16. Section 11212 of the Vehicle Code is amended to read:

11212. (a) Every owner licensed under this chapter shall keep a

record at the traffic violator school's primary business location showing all of the following for each student:

(1) The name and address and license number of the traffic violator school providing instruction.

(2) The name and address of each person given instruction.

(3) The instruction permit number or driver's license number of every person given instruction.

(4) The name and number of the license issued pursuant to Section 11207 of the traffic violator school instructor.

(5) The particular type of instruction given and the date or dates of the instruction.

(6) A statement as to whether the approved lesson plan was followed.

(7) The total number of hours of instruction.

(8) The total cost to the student of the instruction, which shall not exceed the amount of the fee represented or advertised by the traffic violator school at the time of the student's enrollment.

(9) The court docket number under which the student was referred to a traffic violator school.

(10) The number of the completion certificate issued to the student pursuant to subdivision (e) of Section 11208 and, if different, the number of any copy thereof issued to the student.

(b) The records shall be retained for a minimum of three years and shall be open to the inspection during business hours and at all other reasonable times by the department, the court, a private entity providing monitoring pursuant to Section 11222, the Legislative Analyst, and the Auditor General or authorized employees thereof, but shall be only for confidential use.

(c) Whenever a licensee suspends or terminates the licensed activity, the licensee shall surrender the records specified in subdivision (a) to the department for examination not later than the end of the third day, excluding Saturdays, Sundays, and legal holidays, after the date of suspension or termination. The department may duplicate or make a record of any information contained therein. All these records shall be returned to the licensee not later than 30 days after the date of surrender.

SEC. 17. Section 11213 of the Vehicle Code is amended to read:

11213. (a) Every traffic violator school owner licensed pursuant to this chapter shall notify the department within 10 days of any change in the ownership or corporate structure of the licensee.

(b) Every traffic violator school owner shall immediately notify the department of the following activities:

(1) Change of the site or location of the school's established principal place of business.

(2) Addition or deletion of a traffic violator school branch or classroom location.

(c) Every traffic violator school operator and traffic violator school instructor licensed pursuant to this chapter shall report to the department every change of residence address within five days of

the change.

(d) The department may require persons licensed pursuant to this chapter to submit additional reports as determined necessary by the department to serve the purposes of this chapter.

SEC. 18. Section 11214 of the Vehicle Code is amended to read:

11214. The department may monitor any school for traffic violators, including any traffic violator school branch or classroom location, without advance notice. The monitoring may include, but is not limited to, the instruction provided, business practices, and business records.

SEC. 19. Section 11215 of the Vehicle Code is amended to read:

11215. The department, after notice and hearing, may suspend or revoke any license issued under this chapter when any of the following circumstances exist:

(a) Whenever the department is satisfied that the licensee ceases to meet any requirement that is prerequisite to obtaining a license under this chapter.

(b) Whenever the holder fails to comply with any requirement of this chapter or any regulation or requirement of the department adopted pursuant thereto, or otherwise violates a provision of this chapter or the regulations.

(c) Whenever the licensee engages in fraudulent practices with respect to its activities licensed under this chapter or induces or fails to promptly report to the department any known fraud or fraudulent practices on the part of any employee of the traffic violator school.

(d) Whenever the licensee represents himself or herself as an agent or employee of the department or uses advertising designed to create the impression, or which would reasonably have the effect of leading persons to believe, that the licensee was in fact an employee or representative of the department, or whenever the licensee advertises in any manner or means, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(e) Whenever the licensee or any employee or agent of the licensee collects fees for or preregisters any person in traffic violator school or solicits traffic violator school instruction in an office of the department or in any court or within 500 feet of any office of the department or any court.

(f) Whenever the licensee is convicted of violating Section 20001, 20002, 20003, 20004, 20006, 20008, 23103, 23104, 23152, or 23153 of this code or Section 192 of the Penal Code. A conviction after a plea of nolo contendere shall be deemed to be a conviction within the meaning of this section.

(g) Whenever the licensee does any act or series of acts, or is guilty of conduct, which action or conduct manifests a disability or unfitness to perform properly the licensee's occupational duties. The department, in proceeding pursuant to this subdivision, shall conform its procedures to Division 1.5 (commencing with Section 475) of the Business and Professions Code. Whenever disability or

unfitness to perform properly the occupational duties of the licensee is the basis of suspension or revocation of a license issued pursuant to this chapter, the referee, hearing officer, or board hearing the matter shall make a specific finding as to the manner in which the action or conduct manifests disability or unfitness, and the finding shall be incorporated in the order suspending or revoking the license.

(h) Whenever a traffic violator school owner teaches or permits an employee to teach traffic safety instruction without a valid instructor's license.

(i) Whenever a traffic violator school owner does not have in effect a bond as provided in paragraph (4) of subdivision (a) of Section 11202 or a deposit in lieu of the bond, as specified in Section 11203.

SEC. 19.5. Section 11219.5 is added to the Vehicle Code, to read:

11219.5. A traffic violator school shall issue a receipt for any fee collected by the traffic violator school from any person who registers for or attends, or both, the traffic violator school.

SEC. 20. Section 11221 of the Vehicle Code is amended to read:

11221. Whenever the department cancels, suspends, or revokes the license of a traffic violator school owner, traffic violator school operator, or traffic violator school instructor, the licensee or other person in possession of the license shall immediately return the license certificate and any other evidence of licensing to the department.

SEC. 21. Section 11222 of the Vehicle Code is amended to read:

11222. The department may contract with a nongovernmental entity to administer any part of this chapter, subject to limitations in other laws regarding contracting out for services. No such contract shall exceed three years' duration. The contracting entity, and any affiliate or subsidiary thereof monitoring traffic violator schools, shall conform to all of the following requirements:

(a) Engage in no other business activity with traffic violator schools or any of the principals of the traffic violator schools, including the provision of services or supplies.

(b) Provide reports in statistical form to the department and to the Legislature as instructed by the department. These reports shall be issued not less frequently than annually.

(c) Make its records available for inspection by authorized representatives of the department, the Legislative Analyst, and the Auditor General.

SEC. 22. Section 42005 of the Vehicle Code, as amended by Chapter 206 of the Statutes of 1985, is repealed.

SEC. 23. Section 42005 is added to the Vehicle Code, to read:

42005. (a) The court may order any person convicted of a traffic violation to attend a traffic violator school licensed pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5.

(b) In lieu of adjudicating a traffic offense, and with the consent of the defendant, or after conviction of a traffic offense, the court

may order any person issued a notice to appear for a traffic violation to attend a traffic violator school licensed pursuant to Chapter 1.5 (commencing with Section 11200) of Division 5.

(c) Except as otherwise provided in subdivision (d), any person so ordered may choose the traffic violator school the person will attend. The court shall make available to each person subject to such an order the current list of traffic violator schools published by the department pursuant to Section 11205.

(d) In those counties where prior to January 1, 1985, one or more individual courts, or the county acting on behalf of one or more individual courts, contracted for the provision of instructional services to traffic violators referred by the court pursuant to a pretrial diversion program, the courts may restrict referrals under this section to those schools for traffic violators or licensed driving schools which are under contract with the court or with the county to provide instructional services for persons referred pursuant to subdivision (a).

A county described in Section 28023 of the Government Code may continue to provide the program authorized by this section in accordance with the provisions of current and future contracts as may be amended and approved by the individual courts within that county and the county shall be exempt from state regulations relative to maximum classroom attendance.

SEC. 24. Section 42007 of the Vehicle Code is amended to read:

42007. In addition to the fees authorized or required by other provisions of law, and upon the order of a majority or sole judge of a superior, municipal, or justice court, the clerk of the court shall collect a uniform fee from every person ordered to attend a school pursuant to Section 42005 or attending any other court-supervised program of driving instruction, which shall be commensurate with the cost incurred by the court in carrying out Section 42005 or in supervising any such other program, but which may not exceed twelve dollars ($12) per person. The fee may not include the cost, or any part thereof, of instruction offered at such a school or in such other program.

Revenues derived from the fee shall be deposited by the clerk in accordance with Section 68084 of the Government Code. The county board of supervisors may, by resolution, authorize disbursement of the funds as the public interest requires.

SEC. 25. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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. 26. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for proper remedial instruction for traffic violators and to permit the Department of Motor Vehicles to implement this act without delay, it is necessary that this act take effect immediately.

CHAPTER 397

An act to amend Section 10760 of, and to repeal Article 4 (commencing with Section 10910) of Chapter 3 of Part 5 of Division 2 of, the Revenue and Taxation Code, relating to the taxation of mobilehomes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 10760 of the Revenue and Taxation Code is amended to read:

10760. (a) Notwithstanding any other provision of law, a mobilehome sold new on or before June 30, 1980, on which the license fee required to be paid under this part has been delinquent for 120 days or more, shall not be subject to local property taxation, if a request for reinstatement to the vehicle license fee under this part is filed with the Department of Housing and Community Development with a postmark dated no later than December 31, 1986, showing verification by the county tax collector that payment of property taxes on the mobilehome is current, as of the date of filing.

(b) Applications for filing for reinstatement pursuant to this section shall be provided by the Department of Housing and Community Development through its offices and offices of county assessors and county tax collectors.

(c) A mobilehome shall not qualify for reinstatement to the license fee under this part unless payment of property taxes on the mobilehome is current. Reinstatement applications shall include a provision for county tax collectors to verify that the payment of property taxes is current. For purposes of this section, mobilehome owners who submit reinstatement applications to the tax collector for verification prior to September 1st of the fiscal year for which property taxes on the mobilehome will be due and whose verified applications are filed with the department with a postmark date no later than 30 days thereafter are considered current on the payment of property taxes if the payment of property taxes on the mobilehome for prior fiscal years has been satisfied.

(d) A mobilehome, on which the license fee required to be paid under this part has been delinquent for 120 days or more, which was

not actually enrolled on the local property tax roll prior to October 1, 1984, shall not be subject to local property taxation as a condition of reinstatement to the license fee under this part. Tax collectors shall verify on the reinstatement application that such a mobilehome was not enrolled prior to October 1, 1984. Any license fee and penalty which would otherwise be due under this part during the period of delinquency shall be paid to the Department of Housing and Community Development as a condition of reinstatement to the license fee.

(e) Any used mobilehome, the sale of which has not been subject to sales or use tax pursuant to Section 6379 or Section 18116.5 of the Health and Safety Code, shall not qualify for reinstatement to the license fee under this part unless, in addition to the other requirements of this section, the full sales or use tax liability on the last sale, which would have been owed if the mobilehome had not been subject to property taxation, is paid.

(f) The Department of Housing and Community Development, upon receiving the verified reinstatement application and determining that the requirements of this section have been complied with, shall reinstate the mobilehome to the license fee, establish a license fee renewal date for the mobilehome, and notify the county tax assessor to remove the mobilehome from the local property tax roll.

SEC. 2. Article 4 (commencing with Section 10910) of Chapter 3 of Part 5 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 3. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

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 prevent mobilehome owners previously delinquent on state vehicle license fees, whose mobilehomes were not already placed on local property tax rolls by October 1, 1984, from being subject to property taxation as a condition of reinstatement to the license fee pursuant to Chapter 1760 of the Statutes of 1984, it is necessary that this act take effect immediately.

CHAPTER 398

An act to amend Sections 89044 and 89753 of, and to amend and repeal Section 89724 of the Education Code, relating to the California State University.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 89044 of the Education Code is amended to read:

89044. The trustees may budget an amount to be expended for use in carrying out the community relation responsibilities of the president of each campus of the California State University and of the chancellor, as defined by the trustees.

SEC. 2. Section 89724 of the Education Code, as amended by Section 3 of Chapter 359 of the Statutes of 1983, is amended to read:

89724. (a) All money received from the sale of publications pursuant to Section 90500, all money received under an agreement entered into pursuant to Section 89036, and, except as to the fees and charges specified in subdivisions (g) and (h) of Section 89721, all money collected as fees from students in any state university and from other persons under Section 89030, Sections 89036 to 89040, inclusive, and Sections 89700, 89705, 89708, 89709, 89720, and 89721, and by reason of Section 2080.9 of the Civil Code, is hereby appropriated for the support of the California State University in addition to such other amounts as may be appropriated therefor by the Legislature. Money received under Sections 89720 and 89721, or received by reason of Section 2080.9 of the Civil Code, is appropriated without regard to fiscal year. Money received by reason of Section 2080.9 of the Civil Code shall be used for student scholarships and loans pursuant to any regulations the trustees shall provide, and while held pending the grant of a scholarship or loan, may be invested by the Treasurer upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to such investment shall also be used for those scholarships and loans. Money received by reason of Sections 89720 and 89721 may be invested, upon approval of the trustees, by the Treasurer or by the chief fiscal officer of a campus of the California State University, in those eligible securities listed in Section 16430 of the Government Code and in investment certificates or withdrawal shares in federal or state credit unions which are doing business in this state and which have their accounts insured by the National Credit Union Administration. Any money so invested or deposited shall be invested or deposited in certificates, shares, or accounts fully covered by the insurance. All interest and other earnings received pursuant to the investment of

money received by reason of Sections 89720 and 89721 shall also be used for such purposes as may be established by the trustees consistent with the terms and conditions of the gift, bequest, devise, donation, or agreement under Sections 89720 and 89721. Except as otherwise provided with respect to money received by reason of Section 2080.9 of the Civil Code and Sections 89720 and 89721 of this code, all money received pursuant to this section shall augment the support appropriation to the California State University for the fiscal year to which the collections apply.

(b) All money received from the sale or the disposition of real property acquired by or on behalf of a particular state university by gift, devise, or donation pursuant to Section 89720 or pursuant to the predecessor of that section is hereby appropriated to the trustees for expenditure for capital outlay for the acquisition and improvement of real property for the particular state university, in addition to any other amounts appropriated therefor by the Legislature. All money received from the sale or other disposition of personal property, other than money, acquired by or on behalf of a particular state university by gift, bequest, or donation pursuant to Section 89720 or pursuant to the predecessor of that section is hereby appropriated to the trustees for expenditure for capital outlay for, or the acquisition and improvement of real or personal property for, the particular state university, in addition to other amounts appropriated therefor by the Legislature. No money shall be expended by the trustees under this subdivision without the approval of the Director of Finance. The money shall augment the support or capital outlay appropriation of the California State University current at the date of issuance of the Controller's receipt therefor as may be designated by the trustees prior to their deposit in the State Treasury.

SEC. 3. Section 89724 of the Education Code, as amended by Section 4 of Chapter 359 of the Statutes of 1983, is repealed.

SEC. 4. Section 89753 of the Education Code is amended to read:

89753. All appropriations for the support of the California State University and the trustees shall be subject to the provisions of Section 13320 of the Government Code and applicable Budget Act restrictions, with the following exceptions:

(a) The trustees may approve any transfer of funds within functions for which funds are appropriated for the support of the California State University. In addition, the trustees may authorize the augmentation of the amount available for a category designated in any schedule set forth for the appropriation by transfer from any of the other designated categories, including additional reimbursements within the same schedule, and shall furnish the Joint Legislative Budget Committee a report of the authorizations given during the preceding quarter.

(b) The trustees may approve the substitution of one item of equipment for another within budgetary functions and the use of savings in equipment allotments.

(c) The trustees may approve travel, both within and outside the

state, and the payment of allowances and expenses related to travel, moving, and the relocation of employees in accordance with the allowances established by the trustees and within funds appropriated for this purpose.

(d) The trustees may, within funds appropriated for the support of the California State University, establish new positions and make changes in existing positions and the position payroll roster. However, all new positions and significant changes, as defined by the Department of Finance, in grade or class of existing positions shall be shown as administrative adjustments in the subsequent budgetary submissions and shall be subject to review during the legislative budget process.

CHAPTER 399

An act to amend Section 2 of Chapter 1568 of the Statutes of 1982, relating to workers' compensation.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 2 of Chapter 1568 of the Statutes of 1982 is amended to read:

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.

SEC. 2. This act shall apply to all claims for reimbursement for the costs mandated by the state by Chapter 1568 of the Statutes of 1982 which are filed on or after January 1, 1983.

CHAPTER 400

An act to amend Section 13009 of the Unemployment Insurance Code, relating to personal income tax withholding.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 13009 of the Unemployment Insurance Code is amended to read:

13009. "Wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his or her employer, including all remuneration paid to a nonresident employee for services performed in this state, and the cash value of all remuneration paid in any medium other than cash, except as provided by this section. "Wages" includes tips received by an employee in the course of his or her employment. The wages shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to Section 13055 or, if no statement including those tips is so furnished, at the time received.

"Wages" shall not include remuneration paid under any of the following conditions:

(a) For agricultural labor, as defined in subdivision (g) of Section 3121 of the Internal Revenue Code.

(b) For domestic service in a private home, local college club, or local chapter of a college fraternity or sorority.

(c) For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is fifty dollars ($50) or more and the service is performed by an individual who is regularly employed by the employer to perform the service. For purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if either of the following conditions is met:

(1) On each of some 24 days during the quarter, the individual performs for the employer for some portion of the day service not in the course of the employer's trade or business.

(2) The individual was regularly employed, as determined under paragraph (1), by the employer in the performance of the service during the preceding calendar quarter.

(d) For services by a citizen or resident of the United States for a foreign government or an international organization.

(e) For such services, performed by a nonresident alien individual, as may be designated by regulations prescribed by the department.

(f) For services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by the order.

(g) (1) For services performed by an individual under the age of 18 in delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(2) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under

an arrangement under which the newspapers or magazines are to be sold by him or her at a fixed price, his or her compensation being based on the retention of the excess of the price over the amount at which the newspapers or magazines are charged to him or her whether or not he or she is guaranteed a minimum amount of compensation for the services, or is entitled to be credited with the unsold newspapers or magazines turned back.

(h) For services not in the course of the employer's trade or business, to the extent paid in any medium other than cash.

(i) To, or on behalf of, an employee or his or her beneficiary under any of the following situations:

(1) From or to a trust described in Section 17501 of the Revenue and Taxation Code which is exempt from tax under Section 17631 of that code at the time of payment, unless the payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust.

(2) Under or to an annuity plan which, at the time of payment, is a plan described in Section 17511 of the Revenue and Taxation Code.

(3) Under or to a bond purchase plan which, at the time of payment, is a qualified bond purchase plan described in Section 17526 of the Revenue and Taxation Code.

(4) For a payment described in Section 17240 or 17241 of the Revenue and Taxation Code if, at the time of payment, it is reasonable to believe that the employee will be entitled to a deduction under that section for payment.

(j) To a master, officer, or any other seaman who is a member of a crew on a vessel engaged in foreign, coastwise, intercoastal, interstate, or noncontiguous trade.

(k) Pursuant to any provision of law other than Section 5(c) or 6(1) of the Peace Corps Act, for service performed as a volunteer or volunteer leader within the meaning of that act.

(*l*) In the form of group-term life insurance on the life of an employee.

(m) To or on behalf of an employee, and to the extent that, at the time of the payment of remuneration it is reasonable to believe that a corresponding deduction is allowable under Section 17266 of the Revenue and Taxation Code.

(n) (1) As tips in any medium other than cash.

(2) As cash tips to an employee in any calendar month in the course of his or her employment by an employer, unless the amount of the cash tips is twenty dollars ($20) or more.

(o) For service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of the boat pursuant to which all of the following apply:

(1) The individual does not receive any cash remuneration, other than as provided in paragraph (2).

(2) The individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch

of fish or other forms of aquatic animal life or a share of the proceeds from the sale of the catch.

(3) The amount of the individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life.

This subdivision shall apply only where the operating crew of the boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.

(p) For any medical care reimbursement made to, or for the benefit of, an employee under a self-insured medical reimbursement plan pursuant to Section 105(h)(6) of the Internal Revenue Code.

CHAPTER 401

An act to amend Section 667.6 of the Penal Code, relating to sentences, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 667.6 of the Penal Code is amended to read:

667.6. (a) Any person who is found guilty of violating subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person who has been convicted previously of any of those offenses shall receive a five-year enhancement for each of those prior convictions provided that no enhancement shall be imposed under this subdivision for any conviction occurring prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Any person convicted of an offense specified in subdivision (a) who has served two or more prior prison terms as defined in Section 667.5 for any offense specified in subdivision (a), shall receive a 10-year enhancement for each of those prior terms provided that no additional enhancement shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction.

(c) In lieu of the term provided in Section 1170.1, a full, separate, and consecutive term may be imposed for each violation of subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b)

of Section 288, Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person whether or not the crimes were committed during a single transaction. If the term is imposed consecutively pursuant to this subdivision, it shall be served consecutively to any other term of imprisonment, and shall commence from the time the person would otherwise have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

(d) A full, separate, and consecutive term shall be served for each violation of subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person if the crimes involve separate victims or involve the same victim on separate occasions.

The term shall be served consecutively to any other term of imprisonment, and shall commence from the time the person would otherwise have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

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 immediately clarify legislative intent and avoid unnecessary loss of justified enhancements, it is necessary that this act go into effect immediately.

CHAPTER 402

An act to amend Section 667.5 of the Penal Code, relating to crimes.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1 Section 667.5 of the Penal Code is amended to read:

667.5. Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows:

(a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior was one of the violent felonies specified in subdivision (c); provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence is imposed, in addition and consecutive to any other prison terms therefor, the court shall impose a one-year term for each prior separate prison term served for any felony; provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of five years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(c) For the purpose of this section, "violent felony" shall mean any of the following:

(1) Murder or voluntary manslaughter.

(2) Mayhem.

(3) Rape as defined in subdivision (2) of Section 261.

(4) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(5) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(6) Lewd acts on a child under 14 as defined in Section 288.

(7) Any felony punishable by death or imprisonment in the state prison for life.

(8) Any other felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5.

The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for such extraordinary crimes of violence against the person.

(d) For the purposes of this section the defendant shall be deemed to remain in prison custody for an offense until the official discharge from custody or until release on parole whichever first occurs including any time during which the defendant remains subject to reimprisonment for escape from custody or is reimprisoned on revocation of parole. The additional penalties provided for prior prison terms shall not be imposed unless they are

charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve a prior separate term in state prison.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which if committed in California is punishable by imprisonment in state prison if the defendant served one year or more in prison for the offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law if the defendant served one year or more in prison for the offense in the other jurisdiction.

(g) A prior separate prison term for the purposes of this section shall mean a continuous completed period of prison incarceration imposed for the particular offense alone or in combination with concurrent or consecutive sentences for other crimes, including any reimprisonment on revocation of parole which is not accompanied by a new commitment to prison, and including any reimprisonment after an escape from incarceration.

(h) Serving a prison term includes any confinement time in any state prison or federal penal institution as punishment for commission of an offense, including confinement in a hospital or other institution or facility credited as service of prison time in the jurisdiction of the confinement.

(i) For the purposes of this section, a commitment to the State Department of Health as a mentally disordered sex offender following a conviction of a felony, which commitment exceeds one year in duration, shall be deemed a prior prison term.

(j) For the purposes of this section, when a person subject to the custody, control, and discipline of the Director of Corrections is incarcerated at a facility operated by the Youth Authority, that incarceration shall be deemed to be a term served in state prison.

CHAPTER 403

An act to amend Sections 2400, 2432, 2432.5, 2433, 2440, 2450, 2451, and 2500 of, to add Sections 2400.5, 2444, 2457, and 2503.5 to, and to add Chapter 5 (commencing with Section 2510) to Title 9 of Part 4 of Division 3 of, the Civil Code, and to amend Section 702 of the Corporations Code, relating to powers of attorney.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 2400 of the Civil Code is amended to read:

2400. A durable power of attorney is a power of attorney by which a principal designates another his or her attorney in fact in writing and the writing contains the words "This power of attorney shall not be affected by subsequent incapacity of the principal," or "This power of attorney shall become effective upon the incapacity of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent incapacity.

SEC. 2. Section 2400.5 is added to the Civil Code, to read:

2400.5. Where a durable power of attorney gives an attorney in fact the power to exercise voting rights, a proxy given by the attorney in fact to another to exercise the voting rights is subject to all the provisions of law applicable to such proxy and is not a durable power of attorney subject to this article.

SEC. 3. Section 2432 of the Civil Code is amended to read:

2432. (a) An attorney in fact under a durable power of attorney may not make health care decisions unless all of the following requirements are satisfied:

(1) The durable power of attorney specifically authorizes the attorney in fact to make health care decisions.

(2) The durable power of attorney contains the date of its execution.

(3) The durable power of attorney is witnessed by one of the following methods:

(A) The durable power of attorney is signed by at least two witnesses each of whom witnessed either the signing of the instrument by the principal or the principal's acknowledgment of the signature or of the instrument, each witness making the following declaration in substance: "I declare under penalty of perjury under the laws of California that the person who signed or acknowledged this document is personally known to me to be the principal, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, that I am not the person appointed as attorney in fact by this document, and that I am not a health care provider, an employee of a health care provider, the operator of a community care facility, nor an employee of an operator of a community care facility." At least one of the witnesses must also have signed the following declaration: "I further declare under penalty of perjury under the laws of California that I am not related to the principal by blood, marriage, or adoption, and, to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law."

(B) The durable power of attorney is acknowledged before a notary public at any place within this state, the notary public

certifying to the substance of the following:

State of California } ss.
County of _____ }

On this _____ day of _____, in the year _____, before me,

_____,
(Insert name of notary public)

personally appeared _____ ,
(Insert name of principal)

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is subscribed to this instrument appears to be of sound mind and under no duress, fraud, or undue influence.

NOTARY SEAL _____
(Signature of Notary Public)

(b) Except as provided in Section 2432.5:

(1) Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a community care facility nor an employee of an operator of a community care facility, may be designated as the attorney in fact to make health care decisions under a durable power of attorney.

(2) A health care provider or employee of a health care provider may not act as an attorney in fact to make health care decisions if the health care provider becomes the principal's treating health care provider.

(c) A conservator may not be designated as the attorney in fact to make health care decisions under a durable power of attorney for health care executed by a person who is a conservatee under the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, unless (1) the power of attorney is otherwise valid, (2) the conservatee is represented by legal counsel, and (3) the lawyer representing the conservatee signs a certificate stating in substance: "I am a lawyer authorized to practice law in the state where this power of attorney was executed, and the principal was my client at the time this power of attorney was executed. I have advised my client concerning his or her rights in connection with this power of attorney and the applicable law and the consequences of signing or not signing this power of attorney, and my client, after being so advised, has executed this power of attorney."

(d) None of the following may be used as a witness under

subdivision (a):

(1) A health care provider.

(2) An employee of a health care provider.

(3) The attorney in fact.

(4) The operator of a community care facility.

(5) An employee of an operator of a community care facililty.

(e) At least one of the persons used as a witness under subdivision (a) shall be a person who is not one of the following:

(1) A relative of the principal by blood, marriage, or adoption.

(2) A person who would be entitled to any portion of the estate of the principal upon his or her death under any will or codicil thereto of the principal existing at the time of execution of the durable power of attorney or by operation of law then existing.

(f) A durable power of attorney for health care is not effective if the principal is a patient in a skilled nursing facility as defined in subdivision (c) of Section 1250 of the Health and Safety Code at the time of its execution unless one of the witnesses is a patient advocate or ombudsman as may be designated by the State Department of Aging for this purpose pursuant to any other applicable provision of law. The patient advocate or ombudsman shall include in the declaration required by subdivision (a) a declaration that he or she is serving as a witness as required by this subdivision. It is the intent of this subdivision to recognize that some patients in skilled nursing facilities are insulated from a voluntary decisionmaking role, by virtue of the custodial nature of their care, so as to require special assurance that they are capable of willfully and voluntarily executing a durable power of attorney for health care.

SEC. 4. Section 2432.5 of the Civil Code is amended to read:

2432.5. An employee of the treating health care provider or an employee of an operator of a community care facility may be designated as the attorney in fact to make health care decisions under a durable power of attorney if (a) the employee so designated is a relative of the principal by blood, marriage, or adoption, and (b) the other requirements of this article are satisfied.

SEC. 5. Section 2433 of the Civil Code is amended to read:

2433. (a) A printed form of a durable power of attorney for health care that is sold or otherwise distributed in this state for use by a person who does not have the advice of legal counsel shall provide no other authority than the authority to make health care decisions on behalf of the principal and shall contain, in not less than 10-point boldface type or a reasonable equivalent thereof, the following warning statement:

WARNING TO PERSON EXECUTING THIS DOCUMENT

This is an important legal document. Before executing this document, you should know these important facts:

This document gives the person you designate as your agent (the attorney in fact) the power to make health care decisions for you.

Your agent must act consistently with your desires as stated in this document or otherwise made known.

Except as you otherwise specify in this document, this document gives your agent the power to consent to your doctor not giving treatment or stopping treatment necessary to keep you alive.

Notwithstanding this document, you have the right to make medical and other health care decisions for yourself so long as you can give informed consent with respect to the particular decision. In addition, no treatment may be given to you over your objection, and health care necessary to keep you alive may not be stopped or withheld if you object at the time.

This document gives your agent authority to consent, to refuse to consent, or to withdraw consent to any care, treatment, service, or procedure to maintain, diagnose, or treat a physical or mental condition. This power is subject to any statement of your desires and any limitations that you include in this document. You may state in this document any types of treatment that you do not desire. In addition, a court can take away the power of your agent to make health care decisions for you if your agent (1) authorizes anything that is illegal, (2) acts contrary to your known desires, or (3) where your desires are not known, does anything that is clearly contrary to your best interests.

Unless you specify a shorter period in this document, this power will exist for seven years from the date you execute this document and, if you are unable to make health care decisions for yourself at the time when this seven-year period ends, this power will continue to exist until the time when you become able to make health care decisions for yourself.

You have the right to revoke the authority of your agent by notifying your agent or your treating doctor, hospital, or other health care provider orally or in writing of the revocation.

Your agent has the right to examine your medical records and to consent to their disclosure unless you limit this right in this document.

Unless you otherwise specify in this document, this document gives your agent the power after you die to (1) authorize an autopsy, (2) donate your body or parts thereof for transplant or therapeutic or educational or scientific purposes, and (3) direct the disposition of your remains.

If there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

(b) The printed form described in subdivision (a) shall also include the following notice: "This power of attorney will not be valid for making health care decisions unless it is either (1) signed by two qualified adult witnesses who are personally known to you and who are present when you sign or acknowledge your signature or (2) acknowledged before a notary public in California."

(c) A durable power of attorney prepared for execution by a person resident in this state that permits the attorney in fact to make

health care decisions and that is not a printed form shall include one of the following:

(1) The substance of the statements provided for in subdivision (a) in capital letters.

(2) A certificate signed by the principal's lawyer stating: "I am a lawyer authorized to practice law in the state where this power of attorney was executed, and the principal was my client at the time this power of attorney was executed. I have advised my client concerning his or her rights in connection with this power of attorney and the applicable law and the consequences of signing or not signing this power of attorney, and my client, after being so advised, has executed this power of attorney."

(d) If a durable power of attorney includes the certificate provided for in paragraph (2) of subdivision (c) and permits the attorney in fact to make health care decisions for the principal, the applicable law of which the client is to be advised by the lawyer signing the certificate includes, but is not limited to, the matters listed in subdivision (a).

SEC. 6. Section 2440 of the Civil Code is amended to read:

2440. Nothing in this article authorizes an attorney in fact to consent to health care, or to consent to the withholding or withdrawal of health care necessary to keep the principal alive, if the principal objects to the health care or to the withholding or withdrawal of the health care. In such a case, the case is governed by the law that would apply if there were no durable power of attorney for health care.

SEC. 6.5. Section 2444 is added to the Civil Code, to read:

2444. (a) Notwithstanding Section 2433, on and after January 1, 1986, a printed form of a durable power of attorney for health care may be sold or otherwise distributed if it complies with Section 2433 as amended by Section 5 of Chapter 312 of the Statutes of 1984, or with Section 2433 as in effect at the time of sale or distribution; however, any printed form of a durable power of attorney for health care printed on or after January 1, 1986, that is sold or otherwise distributed in this state for use by a person who does not have the advice of legal counsel shall comply with Section 2433 as in effect at the time of sale or distribution.

(b) Notwithstanding Section 2432, a printed form of a durable power of attorney for health care may be sold or otherwise distributed if it complies with Section 2432 as originally enacted, or with Section 2432 as amended; however, any printed form of a durable power of attorney for health care printed on or after January 1, 1986, shall comply with the requirements of Section 2432 as amended.

(c) A durable power of attorney for health care executed on or after January 1, 1986, is not invalid if it complies with Section 2432 as originally enacted in lieu of Section 2432, as amended. A durable power of attorney for health care executed on or after January 1, 1986, using a printed form that complied with Section 2433 as

amended by Section 5 of Chapter 312 of the Statutes of 1984, is as valid as if it had been executed using a printed form that complied with Section 2433 as thereafter amended.

SEC. 7. Section 2450 of the Civil Code is amended to read:

2450. The use of the following form in the creation of a power of attorney is lawful, and when used, the power of attorney shall be construed in accordance with the provisions of this chapter and, if the power of attorney is a durable power of attorney, shall be subject to the provisions of Article 3 (commencing with Section 2400) of Chapter 2:

STATUTORY SHORT FORM POWER OF ATTORNEY
(California Civil Code Section 2450)

WARNING. UNLESS YOU LIMIT THE POWER IN THIS DOCUMENT, THIS DOCUMENT GIVES YOUR AGENT THE POWER TO ACT FOR YOU IN ANY WAY YOU COULD ACT FOR YOURSELF FOR EXAMPLE, YOUR AGENT CAN:
---BUY, SELL, AND MANAGE REAL AND PERSONAL PROPERTY FOR YOU. THIS MEANS THAT YOUR AGENT CAN SELL YOUR HOME, YOUR SECURITIES, AND YOUR OTHER PROPERTY.
---DEPOSIT AND WITHDRAW MONEY FROM YOUR CHECKING AND SAVINGS ACCOUNTS.
---BORROW MONEY USING YOUR PROPERTY AS SECURITY FOR THE LOAN.
---PUT THINGS IN AND TAKE THINGS OUT OF YOUR SAFETY DEPOSIT BOX.
---OPERATE YOUR BUSINESS FOR YOU.
---PREPARE AND FILE TAX RETURNS FOR YOU AND ACT FOR YOU IN TAX MATTERS.
---ESTABLISH TRUSTS FOR YOU AND TAKE OTHER ACTIONS FOR YOU IN CONNECTION WITH PROBATE AND ESTATE PLANNING MATTERS.
---PROVIDE FOR THE SUPPORT AND WELFARE OF YOUR SPOUSE, CHILDREN, AND DEPENDENTS.
---CONTINUE PAYMENTS TO THE CHURCH AND OTHER ORGANIZATIONS OF WHICH YOU ARE A MEMBER AND MAKE GIFTS TO YOUR SPOUSE, DESCENDANTS, AND CHARITIES.

THIS DOCUMENT DOES NOT AUTHORIZE YOUR AGENT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOU. YOU CAN DESIGNATE AN AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU ONLY BY A SEPARATE DOCUMENT.

IT MAY BE IN YOUR BEST INTEREST TO CONSULT WITH A CALIFORNIA LAWYER BECAUSE THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE DEFINED IN SECTIONS 2460 TO 2473, INCLUSIVE, OF THE

CALIFORNIA CIVIL CODE.

THE POWERS GRANTED BY THIS DOCUMENT WILL EXIST FOR AN INDEFINITE PERIOD OF TIME UNLESS YOU LIMIT THEIR DURATION IN THIS DOCUMENT. THESE POWERS WILL CONTINUE TO EXIST NOTWITHSTANDING YOUR SUBSEQUENT DISABILITY OR INCAPACITY UNLESS YOU INDICATE OTHERWISE IN THIS DOCUMENT.

YOU CAN ELIMINATE POWERS OF YOUR AGENT BY CROSSING OUT ANY ONE OR MORE OF THE POWERS LISTED IN PARAGRAPH 3 OF THIS FORM. YOU CAN WRITE OTHER LIMITATIONS AND SPECIAL PROVISIONS IN PARAGRAPH 4 OF THIS FORM. HOWEVER, IF YOU DO NOT WANT TO GRANT YOUR AGENT THE POWER TO ACT FOR YOU IN ANY WAY YOU COULD ACT FOR YOURSELF, IT MAY BE IN YOUR BEST INTEREST TO CONSULT WITH A LAWYER INSTEAD OF USING THIS FORM.

THIS DOCUMENT MUST BE SIGNED BY TWO WITNESSES AND BE NOTARIZED TO BE VALID.

YOU HAVE THE RIGHT TO REVOKE OR TERMINATE THIS POWER OF ATTORNEY.

YOU ARE NOT REQUIRED TO USE THIS FORM; YOU MAY USE A DIFFERENT POWER OF ATTORNEY IF THAT IS DESIRED BY THE PARTIES CONCERNED.

IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

1. DESIGNATION OF AGENT.

I, _____

(Insert your name and address)

do hereby appoint _____

_____

(Insert name and address of your agent, or each agent if you want to designate more than one)

as my attorney(s) in fact (agent) to act for me and in my name as authorized in this document.

2. CREATION OF DURABLE POWER OF ATTORNEY. By this document I intend to create a general power of attorney under Sections 2450 to 2473, inclusive, of the California Civil Code. Subject to any limitations in this document, this power of attorney is a durable power of attorney and shall not be affected by my subsequent incapacity.

(If you want this power of attorney to terminate automatically when you lack capacity, you must so state in paragraph 4 ("Special Provisions and Limitations") below.)

3. STATEMENT OF AUTHORITY GRANTED. Subject to any limitations in this document, I hereby grant to my agent(s) full power and authority to act for me and in my name, in any way which I myself could act, if I were personally present and able to act, with respect to the following matters as each of them is defined in Chapter

3 (commencing with Section 2450) of Title 9 of Part 4 of Division 3 of the California Civil Code to the extent that I am permitted by law to act through an agent:

(1) Real estate transactions.
(2) Tangible personal property transactions.
(3) Bond, share, and commodity transactions.
(4) Financial institution transactions.
(5) Business operating transactions.
(6) Insurance transactions.
(7) Retirement plan transactions.
(8) Estate transactions.
(9) Claims and litigation.
(10) Tax matters.
(11) Personal relationships and affairs.
(12) Benefits from military service.
(13) Records, reports, and statements.
(14) Full and unqualified authority to my agent(s) to delegate any or all of the foregoing powers to any person or persons whom my agent(s) shall select.
(15) All other matters.

(Strike out any one or more of the items above to which you do NOT desire to give your agent authority. Such elimination of any one or more of items (1) to (14), inclusive, automatically constitutes an elimination of item (15). TO STRIKE OUT AN ITEM, YOU MUST DRAW A LINE THROUGH THE TEXT OF THAT ITEM.)

4. SPECIAL PROVISIONS AND LIMITATIONS. In exercising the authority under this power of attorney, my agent(s) is subject to the following special provisions and limitations:

_____

_____

_____

_____

_____

_____

(Special provisions and limitations may be included in the statutory short form power of attorney only if they conform to the requirements of Section 2455 of the California Civil Code.)

5. EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED. If I have designated more than one agent, the agents are to act _____.

(If you designate more than one agent and wish each agent alone to be able to exercise this power, insert in this blank the word "severally." Failure to make an insertion or the insertion of the word "jointly" will require that the agents act jointly.)

6. DURATION.

(The powers granted by this document will exist for an indefinite period of time unless you limit their duration below.)

This power of attorney expires on _____

(Fill in this space ONLY if you want the authority of your agent to terminate

before your death)

7. NOMINATION OF CONSERVATOR OF ESTATE.

(A conservator of the estate may be appointed for you if a court decides that one should be appointed The conservator is responsible for the management of your financial affairs and your property You are not required to nominate a conservator but you may do so The court will appoint the person you nominate unless that would be contrary to your best interests You may, but are not required to, nominate as your conservator the same person you named in paragraph 1 as your agent. You may nominate a person as your conservator by completing the space below)

If a conservator of the estate is to be appointed for me, I nominate the following person to serve as conservator of the estate _____

_____

(Insert name and address of person nominated as conservator of the estate)

DATE AND SIGNATURE OF PRINCIPAL

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Statutory Short Form Power of Attorney on _____ (Date) at _____ (City), _____ (State).

_____

(You sign here)

(THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS BOTH (1) SIGNED BY TWO ADULT WITNESSES WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE AND (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC IN CALIFORNIA)

STATEMENT OF WITNESSES

(READ CAREFULLY BEFORE SIGNING. You can sign as a witness only if you personally know the principal or the identity of the principal is proved to you by convincing evidence.)

(To have convincing evidence of the identity of the principal, you must be presented with and reasonably rely on any one or more of the following:

(1) An identification card or driver's license issued by the California Department of Motor Vehicles that is current or has been issued within five years.

(2) A passport issued by the Department of State of the United States that is current or has been issued within five years.

(3) Any of the following documents if the document is current or has been issued within five years and contains a photograph and description of the person named on it, is signed by the person, and bears a serial or other identifying number:

(a) A passport issued by a foreign government that has been stamped by the United States Immigration and Naturalization Service.

(b) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue drivers' licenses.

(c) An identification card issued by a state other than California.

(d) An identification card issued by any branch of the armed forces of the United States.)

(Other kinds of proof of identity are not allowed.)

I declare under penalty of perjury under the laws of California that the person who signed or acknowledged this document is personally known to me (or proved to me on the basis of convincing evidence) to be the principal, that the principal signed or acknowledged this power of attorney in my presence, and that the principal appears to be of sound mind and under no duress, fraud, or undue influence.

Signature: _____ Residence Address: _____
Print Name: _____ _____
Date: _____ _____

Signature: _____ Residence Address: _____
Print Name: _____ _____
Date: _____ _____

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

State of California } ss.
County of _____ }

On this _____ day of _____, in the year _____, before me,

_____ ,
(Insert name of notary public)

personally appeared _____ ,
(Insert name of principal)

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

NOTARY SEAL

_____
(Signature of Notary Public)

SEC. 8. Section 2451 of the Civil Code is amended to read:

2451. (a) Except as provided in subdivision (b), a statutory short form power of attorney, to be valid, shall contain, in not less than 10-point bold-face type or a reasonable equivalent thereof, the

warning which is printed in capital letters at the beginning of Section 2450.

(b) Subdivision (a) does not apply if the statutory short form power of attorney contains a certificate signed by the principal's lawyer stating in substance: "I am a lawyer authorized to practice law in the state where this power of attorney was executed, and the principal was my client at the time when this power of attorney was executed. I have advised my client concerning his or her rights in connection with this power of attorney and the applicable law and the consequences of signing or not signing this power of attorney, and my client, after being so advised, has executed this power of attorney."

SEC. 9. *Section 2457 is added to the Civil Code, to read:*

2457. A statutory short form power of attorney executed on or after January 1, 1986, using a form that complied with Section 2450 as originally enacted is as valid as if it had been executed using a form that complied with Section 2450, as amended.

SEC. 10. Section 2500 of the Civil Code is amended to read:

2500. The use of the following form in the creation of a durable power of attorney for health care under Article 5 (commencing with Section 2430) of Chapter 2 is lawful, and when used, the power of attorney shall be construed in accordance with the provisions of this chapter and shall be subject to the provisions of Article 5 (commencing with Section 2430) of Chapter 2.

STATUTORY FORM DURABLE POWER OF ATTORNEY FOR HEALTH CARE
(California Civil Code Section 2500)

WARNING TO PERSON EXECUTING THIS DOCUMENT

THIS IS AN IMPORTANT LEGAL DOCUMENT WHICH IS AUTHORIZED BY THE KEENE HEALTH CARE AGENT ACT. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT (THE ATTORNEY IN FACT) THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. YOUR AGENT MUST ACT CONSISTENTLY WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN.

EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THIS DOCUMENT GIVES YOUR AGENT THE POWER TO CONSENT TO YOUR DOCTOR NOT GIVING TREATMENT OR STOPPING TREATMENT NECESSARY TO KEEP YOU ALIVE.

NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR

DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION AT THE TIME, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED OR WITHHELD IF YOU OBJECT AT THE TIME.

THIS DOCUMENT GIVES YOUR AGENT AUTHORITY TO CONSENT, TO REFUSE TO CONSENT, OR TO WITHDRAW CONSENT TO ANY CARE, TREATMENT, SERVICE, OR PROCEDURE TO MAINTAIN, DIAGNOSE, OR TREAT A PHYSICAL OR MENTAL CONDITION. THIS POWER IS SUBJECT TO ANY STATEMENT OF YOUR DESIRES AND ANY LIMITATIONS THAT YOU INCLUDE IN THIS DOCUMENT. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT THAT YOU DO NOT DESIRE. IN ADDITION, A COURT CAN TAKE AWAY THE POWER OF YOUR AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU IF YOUR AGENT (1) AUTHORIZES ANYTHING THAT IS ILLEGAL, (2) ACTS CONTRARY TO YOUR KNOWN DESIRES, OR (3) WHERE YOUR DESIRES ARE NOT KNOWN, DOES ANYTHING THAT IS CLEARLY CONTRARY TO YOUR BEST INTERESTS.

UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST FOR SEVEN YEARS FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF AT THE TIME WHEN THIS SEVEN-YEAR PERIOD ENDS, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY OF YOUR AGENT BY NOTIFYING YOUR AGENT OR YOUR TREATING DOCTOR, HOSPITAL, OR OTHER HEALTH CARE PROVIDER ORALLY OR IN WRITING OF THE REVOCATION.

YOUR AGENT HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

UNLESS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THIS DOCUMENT GIVES YOUR AGENT THE POWER AFTER YOU DIE TO (1) AUTHORIZE AN AUTOPSY, (2) DONATE YOUR BODY OR PARTS THEREOF FOR TRANSPLANT OR THERAPEUTIC OR EDUCATIONAL OR SCIENTIFIC PURPOSES, AND (3) DIRECT THE DISPOSITION OF YOUR REMAINS.

THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

YOU SHOULD CAREFULLY READ AND FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS FORM. THIS DOCUMENT WILL NOT BE VALID UNLESS YOU COMPLY WITH THE WITNESSING PROCEDURE.

IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO

NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

YOUR AGENT MAY NEED THIS DOCUMENT IMMEDIATELY IN CASE OF AN EMERGENCY THAT REQUIRES A DECISION CONCERNING YOUR HEALTH CARE. EITHER KEEP THIS DOCUMENT WHERE IT IS IMMEDIATELY AVAILABLE TO YOUR AGENT AND ALTERNATE AGENTS OR GIVE EACH OF THEM AN EXECUTED COPY OF THIS DOCUMENT. YOU MAY ALSO WANT TO GIVE YOUR DOCTOR AN EXECUTED COPY OF THIS DOCUMENT.

DO NOT USE THIS FORM IF YOU ARE A CONSERVATEE UNDER THE LANTERMAN-PETRIS-SHORT ACT AND YOU WANT TO APPOINT YOUR CONSERVATOR AS YOUR AGENT. YOU CAN DO THAT ONLY IF THE APPOINTMENT DOCUMENT INCLUDES A CERTIFICATE OF YOUR ATTORNEY.

1. DESIGNATION OF HEALTH CARE AGENT. I, _____

_____

(Insert your name and address)

do hereby designate and appoint _____

_____

(Insert name, address, and telephone number of one individual only as your agent to make health care decisions for you None of the following may be designated as your agent. (1) your treating health care provider, (2) a nonrelative employee of your treating health care provider, (3) an operator of a community care facility, or (4) a nonrelative employee of an operator of a community care facility)

as my attorney in fact (agent) to make health care decisions for me as authorized in this document. For the purposes of this document, "health care decision" means consent, refusal of consent, or withdrawal of consent to any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition.

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE. By this document I intend to create a durable power of attorney for health care under Sections 2430 to 2443, inclusive, of the California Civil Code. This power of attorney is authorized by the Keene Health Care Agent Act and shall be construed in accordance with the provisions of Sections 2500 to 2506, inclusive, of the California Civil Code. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED. Subject to any limitations in this document, I hereby grant to my agent full power and authority to make health care decisions for me to the same extent that I could make such decisions for myself if I had the capacity to do so. In exercising this authority, my agent shall make health care decisions that are consistent with my desires as stated in this document or otherwise made known to my agent, including, but not limited to, my desires concerning obtaining or

refusing or withdrawing life-prolonging care, treatment, services, and procedures.

(If you want to limit the authority of your agent to make health care decisions for you, you can state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") below You can indicate your desires by including a statement of your desires in the same paragraph.)

4. STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS.

(Your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, state your desires in the space provided below You should consider whether you want to include a statement of your desires concerning life-prolonging care, treatment, services, and procedures You can also include a statement of your desires concerning other matters relating to your health care You can also make your desires known to your agent by discussing your desires with your agent or by some other means. If there are any types of treatment that you do not want to be used, you should state them in the space below. If you want to limit in any other way the authority given your agent by this document, you should state the limits in the space below If you do not state any limits, your agent will have broad powers to make health care decisions for you, except to the extent that there are limits provided by law)

In exercising the authority under this durable power of attorney for health care, my agent shall act consistently with my desires as stated below and is subject to the special provisions and limitations stated below:

(a) Statement of desires concerning life-prolonging care, treatment, services, and procedures:

_____

_____

_____

_____

_____

_____

_____

_____

(b) Additional statement of desires, special provisions, and limitations: _____

_____

_____

_____

_____

_____

_____

_____

(You may attach additional pages if you need more space to complete your statement If you attach additional pages, you must date and sign EACH of the additional pages at the same time you date and sign this document)

5. INSPECTION AND DISCLOSURE OF INFORMATION

RELATING TO MY PHYSICAL OR MENTAL HEALTH. Subject to any limitations in this document, my agent has the power and authority to do all of the following:

(a) Request, review, and receive any information, verbal or written, regarding my physical or mental health, including, but not limited to, medical and hospital records.

(b) Execute on my behalf any releases or other documents that may be required in order to obtain this information.

(c) Consent to the disclosure of this information.

(If you want to limit the authority of your agent to receive and disclose information relating to your health, you must state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") above.)

6. SIGNING DOCUMENTS, WAIVERS, AND RELEASES. Where necessary to implement the health care decisions that my agent is authorized by this document to make, my agent has the power and authority to execute on my behalf all of the following:

(a) Documents titled or purporting to be a "Refusal to Permit Treatment" and "Leaving Hospital Against Medical Advice."

(b) Any necessary waiver or release from liability required by a hospital or physician.

7. AUTOPSY; ANATOMICAL GIFTS; DISPOSITION OF REMAINS. Subject to any limitations in this document, my agent has the power and authority to do all of the following:

(a) Authorize an autopsy under Section 7113 of the Health and Safety Code.

(b) Make a disposition of a part or parts of my body under the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code).

(c) Direct the disposition of my remains under Section 7100 of the Health and Safety Code.

(If you want to limit the authority of your agent to consent to an autopsy, make an anatomical gift, or direct the disposition of your remains, you must state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") above.)

8. DURATION.

(Unless you specify a shorter period in the space below, this power of attorney will exist for seven years from the date you execute this document and, if you are unable to make health care decisions for yourself at the time when this seven-year period ends, the power will continue to exist until the time when you become able to make health care decisions for yourself.)

This durable power of attorney for health care expires on ____

(Fill in this space ONLY if you want the authority of your agent to end EARLIER than the seven-year period described above.)

9. DESIGNATION OF ALTERNATE AGENTS.

(You are not required to designate any alternate agents but you may do so. Any alternate agent you designate will be able to make the same health care decisions as the agent you designated in paragraph 1, above, in the event that agent is unable or

ineligible to act as your agent. If the agent you designated is your spouse, he or she becomes ineligible to act as your agent if your marriage is dissolved.)

If the person designated as my agent in paragraph 1 is not available or becomes ineligible to act as my agent to make a health care decision for me or loses the mental capacity to make health care decisions for me, or if I revoke that person's appointment or authority to act as my agent to make health care decisions for me, then I designate and appoint the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

A. First Alternate Agent _____

_____

(Insert name, address, and telephone number of first alternate agent)

B. Second Alternate Agent _____

_____

(Insert name, address, and telephone number of second alternate agent)

10. NOMINATION OF CONSERVATOR OF PERSON.

(A conservator of the person may be appointed for you if a court decides that one should be appointed The conservator is responsible for your physical care, which under some circumstances includes making health care decisions for you. You are not required to nominate a conservator but you may do so The court will appoint the person you nominate unless that would be contrary to your best interests You may, but are not required to, nominate as your conservator the same person you named in paragraph 1 as your health care agent You can nominate an individual as your conservator by completing the space below)

If a conservator of the person is to be appointed for me, I nominate the following individual to serve as conservator of the person _____

_____

(Insert name and address of person nominated as conservator of the person)

11. PRIOR DESIGNATIONS REVOKED. I revoke any prior durable power of attorney for health care.

DATE AND SIGNATURE OF PRINCIPAL

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Statutory Form Durable Power of Attorney for Health Care on _____ at
(Date)

_____, _____.
(City) (State)

_____

(You sign here)

(THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS SIGNED BY TWO QUALIFIED WITNESSES WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE IF YOU HAVE ATTACHED ANY

ADDITIONAL PAGES TO THIS FORM, YOU MUST DATE AND SIGN EACH OF THE ADDITIONAL PAGES AT THE SAME TIME YOU DATE AND SIGN THIS POWER OF ATTORNEY)

STATEMENT OF WITNESSES

(This document must be witnessed by two qualified adult witnesses None of the following may be used as a witness· (1) a person you designate as your agent or alternate agent, (2) a health care provider, (3) an employee of a health care provider, (4) the operator of a community care facility, (5) an employee of an operator of a community care facility At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign)

(READ CAREFULLY BEFORE SIGNING You can sign as a witness only if you personally know the principal or the identity of the principal is proved to you by convincing evidence)

(To have convincing evidence of the identity of the principal, you must be presented with and reasonably rely on any one or more of the following

(1) An identification card or driver's license issued by the California Department of Motor Vehicles that is current or has been issued within five years

(2) A passport issued by the Department of State of the United States that is current or has been issued within five years

(3) Any of the following documents if the document is current or has been issued within five years and contains a photograph and description of the person named on it, is signed by the person, and bears a serial or other identifying number

(a) A passport issued by a foreign government that has been stamped by the United States Immigration and Naturalization Service

(b) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue drivers' licenses

(c) An identification card issued by a state other than California

(d) An identification card issued by any branch of the armed forces of the United States)

(Other kinds of proof of identity are not allowed)

I declare under penalty of perjury under the laws of California that the person who signed or acknowledged this document is personally known to me (or proved to me on the basis of convincing evidence) to be the principal, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, that I am not the person appointed as attorney in fact by this document, and that I am not a health care provider, an employee of a health care provider, the operator of a community care facility, nor an employee of an operator of a community care facility.

Signature: _____ Residence Address: _____
Print Name: _____ _____
Date: _____ _____

Signature: _____ Residence Address: _____
Print Name: _____ _____
Date: _____ _____

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION)

I further declare under penalty of perjury under the laws of California that I am not related to the principal by blood, marriage, or adoption, and, to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature: _____

Signature: _____

STATEMENT OF PATIENT ADVOCATE OR OMBUDSMAN

(If you are a patient in a skilled nursing facility, one of the witnesses must be a patient advocate or ombudsman. The following statement is required only if you are a patient in a skilled nursing facility--a health care facility that provides the following basic services skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. The patient advocate or ombudsman must sign both parts of the "Statement of Witnesses" above AND must also sign the following statement)

I further declare under penalty of perjury under the laws of California that I am a patient advocate or ombudsman as designated by the State Department of Aging and that I am serving as a witness as required by subdivision (f) of Section 2432 of the Civil Code.

Signature: _____

SEC. 11. Section 2503.5 is added to the Civil Code, to read:

2503.5. (a) A statutory form durable power of attorney for health care executed on or after January 1, 1986, using a form that complied with Section 2500 as originally enacted is as valid as if it had been executed using a form that complied with Section 2500 as amended.

(b) Notwithstanding Section 2501, a statutory form durable power of attorney for health care executed on or after January 1, 1986, is not invalid if it contains the warning using the language set forth in Section 2500 as originally enacted instead of the warning using the language set forth in that section as amended.

(c) For the purposes of subdivision (c) of Section 2503, on and after January 1, 1986, a printed statutory form durable power of attorney for health care may be sold or otherwise distributed if it contains the exact wording of the form set out in Section 2500 as originally enacted, or the exact wording of the form set out in Section 2500 as amended, including the warning and instructions, and nothing else; but any printed statutory form durable power of attorney for health care printed on or after January 1, 1986, that is sold or otherwise distributed in this state for use by a person who does not have the advice of legal counsel shall contain the exact wording

of the form set out in Section 2500 as amended, including the warning and instructions, and nothing else.

SEC. 12. Chapter 5 (commencing with Section 2510) is added to Title 9 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 5. MISCELLANEOUS PROVISIONS RELATING TO POWERS OF ATTORNEY

2510. (a) This section does not apply to either of the following:

(1) A durable power of attorney for health care.

(2) A Statutory Short Form Power of Attorney that satisfies the requirements of Chapter 3 (commencing with Section 2450).

(b) A printed form of a durable power of attorney that is sold or otherwise distributed in this state for use by a person who does not have the advice of legal counsel shall contain, in not less than 10-point boldface type or a reasonable equivalent thereof, the following warning statement:

WARNING TO PERSON EXECUTING THIS DOCUMENT

This is an important legal document. It creates a durable power of attorney. Before executing this document, you should know these important facts:

This document may provide the person you designate as your attorney in fact with broad powers to manage, dispose, sell, and convey your real and personal property and to borrow money using your property as security for the loan.

These powers will exist for an indefinite period of time unless you limit their duration in this document. These powers will continue to exist notwithstanding your subsequent disability or incapacity.

You have the right to revoke or terminate this power of attorney.

If there is anything about this form that you do not understand, you should ask a lawyer to explain it to you.

(c) Nothing in subdivision (b) invalidates any transaction in which a third person relied in good faith upon the authority created by the durable power of attorney.

2510.5. (a) Notwithstanding Section 2510, on and after January 1, 1986, a printed form of a durable power of attorney may be sold or otherwise distributed if it complies with subdivision (b) of Section 2400 as originally enacted, or with Section 2510; however, except as provided in subdivision (a) of Section 2510, any printed form of a durable power of attorney printed on or after January 1, 1986, that is sold or otherwise distributed in this state for use by a person who does not have the advice of legal counsel shall comply with Section 2510.

(b) A durable power of attorney executed on or after January 1, 1986, using a printed form that complied with subdivision (b) of Section 2400 as originally enacted is as valid as if it had been executed using a printed form that complied with Section 2510.

2511. For the purposes of the declaration of witnesses required by Section 2450 or 2500, "convincing evidence" means the absence of any information, evidence, or other circumstances which would lead a reasonable person to believe that the person signing or acknowledging the power of attorney as principal is not the individual he or she claims to be and any one of the following:

(a) Reasonable reliance on the presentation of any one of the following, if the document is current or has been issued within five years:

(1) An identification card or driver's license issued by the California Department of Motor Vehicles.

(2) A passport issued by the Department of State of the United States.

(b) Reasonable reliance on the presentation of any one of the following, if the document is current or has been issued within five years and contains a photograph and description of the person named on it, is signed by the person, bears a serial or other identifying number, and, in the event that the document is a passport, has been stamped by the United States Immigration and Naturalization Service:

(1) A passport issued by a foreign government.

(2) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue drivers' licenses.

(3) An identification card issued by a state other than California.

(4) An identification card issued by any branch of the armed forces of the United States.

2512. (a) Except as provided in Section 2438, a person who acts in good faith reliance upon a power of attorney, whether or not a durable power of attorney, is not liable to the principal or to any other person for so acting if all of the following requirements are satisfied:

(1) The power of attorney is presented to the person by the attorney in fact named in the power of attorney.

(2) The power of attorney appears on its face to be valid.

(3) The power of attorney includes a notary public's certificate of acknowledgment.

(b) Nothing in this section is intended to create an implication that a person is liable for acting in reliance upon a power of attorney under circumstances where the requirements of subdivision (a) are not satisfied. Nothing in this section affects any immunity that may otherwise exist apart from this section.

2513. A power of attorney, whether or not a durable power of attorney, may by its terms apply to all or a portion of the real and personal property of the principal, whether owned by the principal at the time of the giving of the power of attorney or thereafter acquired, whether located in this state or elsewhere, without the need for a description of each item or parcel of property.

SEC. 13. Section 702 of the Corporations Code is amended to

read:

702. (a) Subject to subdivision (c) of Section 703, shares held by an administrator, executor, guardian, conservator or custodian may be voted by such holder either in person or by proxy, without a transfer of such shares into the holder's name; and shares standing in the name of a trustee may be voted by the trustee, either in person or by proxy, but no trustee shall be entitled to vote shares held by such trustee without a transfer of such shares into the trustee's name.

(b) Shares standing in the name of a receiver may be voted by such receiver; and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into the receiver's name if authority to do so is contained in the order of the court by which such receiver was appointed.

(c) Subject to the provisions of Section 705 and except where otherwise agreed in writing between the parties, a shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

(d) Shares standing in the name of a minor may be voted and the corporation may treat all rights incident thereto as exercisable by the minor, in person or by proxy, whether or not the corporation has notice, actual or constructive, of the nonage, unless a guardian of the minor's property has been appointed and written notice of such appointment given to the corporation.

(e) If authorized to vote the shares by the power of attorney by which the attorney in fact was appointed, shares held by or under the control of an attorney in fact may be voted and the corporation may treat all rights incident thereto as exercisable by the attorney in fact, in person or by proxy, without the transfer of the shares into the name of the attorney in fact.

SEC. 14. Nothing in this act affects the validity of a power of attorney executed prior to the date this act becomes operative.

CHAPTER 404

An act to amend Sections 4701, 4702, and 4801.7 of, and to amend, repeal, and add Section 4801.6 of, the Civil Code, relating to support.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child,

the court may order either parent or both parents to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any

change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the

court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(f) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(g) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(h) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial

parent receives welfare moneys.

(i) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(k) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

(*l*) In any case where support for a minor child is ordered to be paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(m) This section shall remain in effect only until January 1, 1987, and as of that date is repealed.

SEC. 2. Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to either

the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such

change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this

subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(f) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(g) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(h) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(i) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in that order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(k) Notwithstanding subdivisions (a) and (b) in any case where support is ordered to be paid through the county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

(*l*) In any case where support for a minor child is ordered to be paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(m) This section shall become operative on January 1, 1987.

SEC. 3. Section 4702 of the Civil Code is amended to read:

4702. (a) Notwithstanding the provisions of Section 4701, in any proceeding where a court makes or has made an order requiring the payment of child support to a parent receiving welfare moneys for the maintenance of minor children, the court shall direct that the payments of support shall be made to the county officer designated by the court for that purpose, and shall direct the district attorney

to appear on behalf of the welfare recipient in any proceeding to enforce the order.

(b) In any proceeding where a court makes or has made an order requiring the payment of child support to the person having custody of any minor children of the marriage, the court may direct that the payments shall be made to the county officer designated by the court for that purpose, and may direct the district attorney to appear on behalf of the minor children in any action to enforce the order. The court shall include in its order any service charge imposed under the authority of Section 580.5 of the Welfare and Institutions Code.

(c) Notwithstanding any other provision of law, in any proceeding where the custodial parent resides in one county and the parent ordered to pay support resides in another county, the court may direct payment to be made to the county officer designated by the court for those purposes in the county of residence of the custodial parent, and may direct the district attorney of either county to enforce the order. Civil enforcement by the district attorney of the county of residence of the custodial parent, where the order is in the county of the noncustodial parent or any other county, may be brought in accordance with Section 1697 of the Code of Civil Procedure. If the court directs the district attorney of the county of residence of the noncustodial parent to enforce the order, the expenses of the district attorney with respect to the enforcement shall be a charge upon the county of residence of the noncustodial parent.

(d) Except as provided in subdivision (c), expenses of the county officer designated by the court, and expenses of the district attorney incurred in the enforcement of any order of the type described in subdivision (a) or (b), shall be a charge upon the county where the proceedings are pending. Any fees for service of process in the enforcement of any such order shall be a charge upon the county where the process is served.

SEC. 4. Section 4801.6 of the Civil Code is amended to read:

4801.6. (a) In any proceeding where the court has ordered a party to pay any amount of spousal support to the other party, the court, upon a showing of good cause, may order the party required to make a payment of spousal support to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of the party due or to be due in the future as will be sufficient to pay the amount ordered by the court for spousal support. The order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make the payment of spousal support upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered a party to pay spousal support to the other party, upon a petition signed under penalty of

perjury by the person to whom support has been ordered to have been paid alleging that the party ordered to pay spousal support is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition, the court, without notice to the defaulting party, shall order the defaulting party to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the party required to make the payment of spousal support as will be sufficient to pay the amount ordered by the court for spousal support.

Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make a payment of spousal support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the person to whom support has been ordered to be paid has given the person ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of the entry of the decree of dissolution or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The person ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The party to whom support has been ordered to be paid shall notify the court and the employer of the party ordered to pay spousal support, by any form of mail requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the party to whom spousal support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any changes. If the employer or county officer is unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall

not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the person ordered to pay support.

(6) A person alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the person of notice of the assignment order by his or her employer if the person states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the person of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the person ordered to pay support has been given notice of the order of assignment, and the fact that the person ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the person ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the person ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the person ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to

deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court, with the exception of assignments made pursuant to Section 4701.

(d) The employer shall cooperate with, and provide relevant employment information to, the district attorney for the purpose of enforcing the spousal support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the dismissal of an employee.

(f) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(g) On declaration or affidavit of the party to whom spousal support has been ordered to be paid to the court that: (1) the party ordered to make a spousal support payment is in default in that payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting party or the identity of his or her employer are unknown to the party to whom spousal support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent party and the name and address of the absent party's last known employer. The court shall then order the party obligated to make spousal support payments to show cause why an order for assignment pursuant to subdivision (b) should not issue. The county may charge a reasonable fee not to exceed two dollars and fifty cents ($2.50) for the services of the district attorney under this subdivision.

(h) Nothing in this section shall limit or expand the authority of the district attorney to utilize any and all civil and criminal remedies to enforce spousal support obligations regardless of whether or not the party to be supported receives welfare moneys.

(i) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that those moneys and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity

described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4801.7. The moneys shall be subject to any procedure available to enforce an order for spousal support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting party. A court shall not directly or indirectly condition the issuance, modification or termination of, or condition the terms or conditions of, any order for spousal support upon the issuance of such a request by such an employee.

(k) The procedures specified in this section are applicable to any proceeding where the court has ordered a party to pay any amount for family support.

(*l*) This section shall remain in effect only until January 1, 1987, and as of that date is repealed.

SEC. 5. Section 4801.6 is added to the Civil Code, to read:

4801.6. (a) In any proceeding where the court has ordered a party to pay any amount of spousal support to the other party, the court, upon a showing of good cause, may order the party required to make a payment of spousal support to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of the party due or to be due in the future as will be sufficient to pay the amount ordered by the court for spousal support. The order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make the payment of spousal support upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered a party to pay spousal support to the other party, upon a petition signed under penalty of perjury by the person to whom support has been ordered to have been paid alleging that the party ordered to pay spousal support is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition, the court, without notice to the defaulting party, shall order the defaulting party to assign either to the person to whom support has been ordered to have been paid or to a county

officer designated by the court to receive the payment, that portion of the salary or wages of the party required to make the payment of spousal support as will be sufficient to pay the amount ordered by the court for spousal support.

Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make a payment of spousal support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the person to whom support has been ordered to be paid has given the person ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of the entry of the decree of dissolution or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The person ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The party to whom support has been ordered to be paid shall notify the court and the employer of the party ordered to pay spousal support, by any form of mail requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the party to whom spousal support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any changes. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the person ordered to pay support.

(6) A person alleged to be in default may move to quash an

assignment order issued under this subdivision within 10 days after service on the person of notice of the assignment order by his or her employer if the person states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the person of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the person ordered to pay support has been given notice of the order of assignment, and the fact that the person ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the person ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the person ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the person ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the

sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court, with the exception of assignments made pursuant to Section 4701.

(d) The employer shall cooperate with, and provide relevant employment information to, the district attorney for the purpose of enforcing the spousal support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the dismissal of an employee.

(f) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(g) On declaration or affidavit of the party to whom spousal support has been ordered to be paid to the court that: (1) the party ordered to make a spousal support payment is in default in that payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting party or the identity of his or her employer are unknown to the party to whom spousal support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent party and the name and address of the absent party's last known employer. The court shall then order the party obligated to make spousal support payments to show cause why an order for assignment pursuant to subdivision (b) should not issue. The county may charge a reasonable fee not to exceed two dollars and fifty cents ($2.50) for the services of the district attorney under this subdivision.

(h) Nothing in this section shall limit or expand the authority of the district attorney to utilize any and all civil and criminal remedies to enforce spousal support obligations regardless of whether or not the party to be supported receives welfare moneys.

(i) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that those moneys and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court,

within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4801.7. The moneys shall be subject to any procedure available to enforce an order for spousal support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting party. A court shall not directly or indirectly condition the issuance, modification or termination of, or condition the terms or conditions of, any order for spousal support upon the issuance of such a request by such an employee.

(k) The procedures specified in this section are applicable to any proceeding where the court has ordered a party to pay any amount for family support.

(*l*) This section shall become operative on January 1, 1987.

SEC. 6. Section 4801.7 of the Civil Code is amended to read:

4801.7. (a) In any proceeding where a court makes or has made an order requiring payment of spousal support, the court may direct that payment shall be made to the county officer designated by the court for the purpose. The court may include in any such order any service charge imposed under the authority of Section 279 of the Welfare and Institutions Code.

(b) In any proceeding where the court has entered an order pursuant to subdivision (a) the court may also refer the matter of enforcement of the spousal support order to the district attorney. The district attorney may bring such enforcement proceedings as he or she in his or her discretion deems appropriate. Nothing in this section shall be construed to prohibit the district attorney from bringing an action or from initiating process to enforce or to punish the failure to obey an order for spousal support under any provision of law which empowers the district attorney to bring such an action or initiate such a process, whether or not there has been a referral by the court pursuant to this section.

(c) Notwithstanding the provisions of subdivision (b), in any case in which the district attorney is required to appear on behalf of a welfare recipient in a proceeding to enforce an order requiring payment of child support, the district attorney shall also enforce any order requiring payment to the welfare recipient of spousal support that is in arrears.

(d) Insofar as expenses of the county officer designated by the court and expenses of the district attorney incurred in the enforcement of any order referred by the court exceed any service charge imposed under Section 279 of the Welfare and Institutions Code, they shall be a charge upon the county where the proceedings are pending. Any fees for service of process in the enforcement of any such order shall be a charge upon the county where the process is served.

SEC. 7. Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time

waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to

pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) Orders for wage assignment required or authorized by this section shall include a requirement that the parent ordered to pay support notify the parent or other person designated to receive payment of any change of employment.

(f) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5

of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(i) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(*l*) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

(m) In any case where support for a minor child is ordered to be paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's

custodial parent within seven days of receipt.

(n) This section shall remain in effect only until January 1, 1987, and as of that date is repealed.

SEC. 8. Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, the court may order either parent or both parents to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing

of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay support, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall

be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the parent ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) Orders for wage assignment required or authorized by the section shall include a requirement that the parent ordered to pay support notify the parent or other person designated to receive payment of any change of employment.

(f) No employer shall use any assignment authorized by this section as grounds for the dismissal of that employee.

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in the payment in the amount specified in subdivision (b), and (2) the whereabouts of the defaulting parent or the identity of his or her employer are unknown

to the parent to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(i) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in that order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4702. These moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

(*l*) Notwithstanding subdivisions (a) and (b) in any case where support is ordered to be paid through the county officer designated by the court for those purposes, or where the district attorney requests, the court shall order a wage assignment pursuant to this section.

(m) In any case where support for a minor child is ordered to be paid through the county officer designated by the court for that purpose, and where support is being paid on behalf of a minor child not receiving public assistance pursuant to the Family Economic

Security Act of 1982 (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the county shall forward the support received to the minor child's custodial parent within seven days of receipt.

(n) This section shall become operative on January 1, 1987.

SEC. 9. Section 4801.6 of the Civil Code is amended to read:

4801.6. (a) In any proceeding where the court has ordered a party to pay any amount of spousal support to the other party, the court, upon a showing of good cause, may order the party required to make a payment of spousal support to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of the party due or to be due in the future as will be sufficient to pay the amount ordered by the court for spousal support. The order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make the payment of spousal support upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered a party to pay spousal support to the other party, upon a petition signed under penalty of perjury by the person to whom support has been ordered to have been paid alleging that the party ordered to pay spousal support is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition, the court, without notice to the defaulting party, shall order the defaulting party to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the party required to make the payment of spousal support as will be sufficient to pay the amount ordered by the court for spousal support.

Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make a payment of spousal support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the person to whom support has been ordered to be paid has given the person ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of the entry of the decree of dissolution or at any time subsequent

thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The person ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The party to whom support has been ordered to be paid shall notify the court and the employer of the party ordered to pay spousal support, by any form of mail requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the party to whom spousal support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any changes. If the employer or county officer is unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the person ordered to pay support.

(6) A person alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the person of notice of the assignment order by his or her employer if the person states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the person of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the person ordered to pay support has been given notice of the order of assignment, and the fact that the person ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the person ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the person ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the person ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court, with the exception of assignments made pursuant to Section 4701.

(d) The employer shall cooperate with, and provide relevant employment information to, the district attorney for the purpose of enforcing the spousal support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the dismissal of an employee.

(f) Orders for wage assignment required or authorized by this section shall include a requirement that the person ordered to pay support notify the other party or other person designated to receive payment of any change of employment.

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the party to whom spousal support has been ordered to be paid to the court that: (1) the party ordered to make a spousal support payment is in default in that

payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting party or the identity of his or her employer are unknown to the party to whom spousal support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent party and the name and address of the absent party's last known employer. The court shall then order the party obligated to make spousal support payments to show cause why an order for assignment pursuant to subdivision (b) should not issue. The county may charge a reasonable fee not to exceed two dollars and fifty cents ($2.50) for the services of the district attorney under this subdivision.

(i) Nothing in this section shall limit or expand the authority of the district attorney to utilize any and all civil and criminal remedies to enforce spousal support obligations regardless of whether or not the party to be supported receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that those moneys and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4801.7. The moneys shall be subject to any procedure available to enforce an order for spousal support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting party. A court shall not directly or indirectly condition the issuance, modification or termination of, or condition the terms or conditions of, any order for spousal support upon the issuance of such a request by such an employee.

(*l*) The procedures specified in this section are applicable to any proceeding where the court has ordered a party to pay any amount for family support.

(m) This section shall remain in effect only until January 1, 1987, and as of that date is repealed.

SEC. 10. Section 4801.6 is added to the Civil Code, to read:

4801.6. (a) In any proceeding where the court has ordered a party to pay any amount of spousal support to the other party, the court, upon a showing of good cause, may order the party required to make a payment of spousal support to assign to either the person to whom support has been ordered to have been paid or the county officer designated by the court to receive the payment, that portion of salary or wages of the party due or to be due in the future as will be sufficient to pay the amount ordered by the court for spousal support. The order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make the payment of spousal support upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered a party to pay spousal support to the other party, upon a petition signed under penalty of perjury by the person to whom support has been ordered to have been paid alleging that the party ordered to pay spousal support is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition, the court, without notice to the defaulting party, shall order the defaulting party to assign either to the person to whom support has been ordered to have been paid or to a county officer designated by the court to receive the payment, that portion of the salary or wages of the party required to make the payment of spousal support as will be sufficient to pay the amount ordered by the court for spousal support.

Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make a payment of spousal support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the person to whom support has been ordered to be paid has given the person ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of the entry of the decree of dissolution or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of

Civil Procedure. The person ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The party to whom support has been ordered to be paid shall notify the court and the employer of the party ordered to pay spousal support, by any form of mail requiring a return receipt, of any change of address within a reasonable period of time after any such change. In instances in which payments have been ordered to be made to a county officer designated by the court, the party to whom spousal support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any changes. If the employer or county officer is unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address, the employer or county officer shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the person ordered to pay support.

(6) A person alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the person of notice of the assignment order by his or her employer if the person states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the person of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the person ordered to pay support has been given notice

of the order of assignment, and the fact that the person ordered to pay support may have subsequently paid the arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the person ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 24 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall not be terminated unless upon a petition by the person ordered to pay support the court determines that there is good cause to terminate the assignment.

Upon petition by the person ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision if the employer or county officer has been unable to deliver payments under the assignment for a period of three months due to the failure of the person to whom support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court, with the exception of assignments made pursuant to Section 4701.

(d) The employer shall cooperate with, and provide relevant employment information to, the district attorney for the purpose of enforcing the spousal support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the dismissal of an employee.

(f) Orders for wage assignment required or authorized by the section shall include a requirement that the person ordered to pay support to the other party or other person designated to receive payment of any change of employment.

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the party to whom spousal support has been ordered to be paid to the court that: (1) the party ordered to make a spousal support payment is in default in that payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting party or the identity of his or her employer are unknown to the party to whom spousal support has

been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent party and the name and address of the absent party's last known employer. The court shall then order the party obligated to make spousal support payments to show cause why an order for assignment pursuant to subdivision (b) should not issue. The county may charge a reasonable fee not to exceed two dollars and fifty cents ($2.50) for the services of the district attorney under this subdivision.

(i) Nothing in this section shall limit or expand the authority of the district attorney to utilize any and all civil and criminal remedies to enforce spousal support obligations regardless of whether or not the party to be supported receives welfare moneys.

(j) The provisions of this section apply to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that those moneys and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in the order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of that fact to the parties, and any agency through whom payments have been ordered under Section 4801 7. The moneys shall be subject to any procedure available to enforce an order for spousal support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting party. A court shall not directly or indirectly condition the issuance, modification or termination of, or condition the terms or conditions of, any order for spousal support upon the issuance of such a request by such an employee.

(*l*) The procedures specified in this section are applicable to any proceeding where the court has ordered a party to pay any amount for family support.

(m) This section shall become operative on January 1, 1987.

SEC. 11. Section 7 of this bill incorporates amendments to Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of

the Statutes of 1984, proposed by both this bill and AB 350. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 4701 of the Civil Code, as amended by Section 1 of Chapter 1463 of the Statutes of 1984, and (3) this bill is enacted after AB 350, in which case Section 1 of this bill shall not become operative.

SEC. 12. Section 8 of this bill incorporates amendments to Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, proposed by both this bill and AB 350. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 4701 of the Civil Code, as amended by Section 1.5 of Chapter 1463 of the Statutes of 1984, and (3) this bill is enacted after AB 350, in which case Section 2 of this bill shall not become operative.

SEC. 13. Section 9 of this bill incorporates amendments to Section 4801.6 of the Civil Code proposed by both this bill and AB 350. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 4801.6 of the Civil Code, and (3) this bill is enacted after AB 350, in which case Section 4 of this bill shall not become operative.

SEC. 14. Section 10 of this bill shall become operative only if AB 350 of the 1985–86 Regular Session is enacted and amends Section 4801.6 of the Civil Code, in which case Section 5 of this bill shall not become operative.

CHAPTER 405

An act to amend Sections 5536, 5536.2, 5536.3, 5537.6, 5600.1, and 5600.2 of, to amend and renumber Sections 5536.2 and 5536.3 of, to amend, repeal, and add Section 5514 of, to add and repeal Section 5552.1 of, and to repeal Sections 5500.2, 5500.3, 5536.1, 5560.1, and 5605 of, the Business and Professions Code, relating to building designers.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 5500.2 of the Business and Professions Code is repealed.

SEC. 2. Section 5500.3 of the Business and Professions Code is repealed.

SEC. 3. Section 5514 of the Business and Professions Code is amended to read:

5514. The membership of the board shall be composed of nine members, four of whom shall be architects and five of whom shall be public members.

The four professional members of the board shall be selected from

architects in good standing who have been licensed and in practice in this state for at least five years at the time of appointment, all of whom shall be resident and in practice in California, except that the building designer member serving on the board on December 31, 1985, shall continue serving on the board on and after January 1, 1986, until the end of his or her term, as one of the architect members, and may continue to serve in that capacity if reappointed to a second term.

The public members of the board shall not be licensees of the board.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed.

SEC. 4. Section 5514 is added to the Business and Professions Code, to read:

5514. The membership of the board shall be composed of nine members, four of whom shall be architects and five of whom shall be public members.

The four professional members of the board shall be selected from architects in good standing who have been licensed and in practice in this state for at least five years at the time of appointment, all of whom shall be resident and in practice in California.

The public members of the board shall not be licensees of the board.

This section shall become operative on January 1, 1988.

SEC. 5. Section 5536 of the Business and Professions Code is amended to read:

5536. (a) It is a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, for any person who does not hold a certificate to engage in the practice of architecture issued under this chapter, to practice architecture in this state or to use any term confusingly similar to the word architect, or to advertise or put out any sign or card or other device which might indicate to the public that he or she is an architect or that he or she is qualified to engage in the practice of architecture or is an architectural designer.

(b) It is a misdemeanor, punishable as specified in subdivision (a), for any person to advertise or represent that he or she is a "registered building designer" or is registered or otherwise licensed by the state as a building designer.

SEC. 6. Section 5536.1 of the Business and Professions Code is repealed.

SEC. 7. Section 5536.2 of the Business and Professions Code is amended and renumbered to read:

5536.1. (a) All persons preparing plans, specifications, and instruments of service for others shall sign those plans, specifications, and other instruments of service and all contracts therefor, and if licensed under this chapter shall note their license number. Failure

of any person to comply with this subdivision is a misdemeanor punishable as provided in Section 5536. This section shall not apply to employees of persons licensed under this chapter while acting within the course of their employment.

(b) The preparation of plans, specifications, or instruments of service for any building, except the buildings described in Section 5537, by any person who is not licensed to practice architecture in this state, is a misdemeanor punishable as provided in Section 5536.

SEC. 8. Section 5536.3 of the Business and Professions Code is amended and renumbered to read:

5536.2. Each county or city which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, or repair of any building or structure shall also require as a condition precedent to the issuance of the permit a signed statement that the person who has prepared the plans and specifications for the construction, alteration, improvement, or repair of the building or structure is licensed under this chapter to prepare the plans and specifications, or is otherwise licensed in this state to prepare the plans and specifications.

The signature and license number on the plans and specifications of a person who is licensed to prepare the plans and specifications shall constitute compliance with this section.

It shall be the responsibility of the agency that issues the permit to determine that the person who signed the plans and specifications or who submitted a signed statement that he or she is licensed under this chapter, is qualified under this chapter to prepare the plans and specifications.

The provisions in this section shall not apply to the issuance of permits where the preparation of plans and specifications for the construction, alteration, improvement, or repair of a building or structure is exempt from the provisions of this chapter, except that the person preparing the plans and specifications for others shall sign the plans and specifications as provided by Section 5536.1.

SEC. 9. Section 5537.6 of the Business and Professions Code is amended to read:

5537.6. For the purposes of this chapter a contractor, licensed under Chapter 9 (commencing with Section 7000) of Division 3, is exempt from the provisions of this chapter so long as the services he or she holds himself or herself out as able to perform or does perform, which services are subject to the provisions of this chapter, are performed on behalf of the contractor by, or under the responsible supervision of, a person licensed to practice architecture under this chapter or a professional or civil engineer licensed under the provisions of Chapter 7 (commencing with Section 6700) of Division 3, insofar as the professional or civil engineer practices the profession for which he or she is registered under Chapter 7 of Division 3.

SEC. 10. Section 5552.1 is added to the Business and Professions Code, to read:

5552.1. (a) Notwithstanding Section 5552, any person who is

registered as a building designer on or before January 1, 1986, shall be deemed licensed to practice architecture in this state, and the board shall issue a certificate to that effect. The term "registered building designer" shall cease to designate licencees of the board. Licensure fees shall be considered paid for the extent of the term for which the person has paid current registration fees. The board shall inform all delinquent registrants by registered mail that upon payment of both the registration and delinquent fees no later than January 1, 1987, a license to practice architecture shall be issued to them.

(b) This section shall remain in effect only until January 1, 1988, and as of that date is repealed.

SEC. 11. Section 5560.1 of the Business and Professions Code is repealed.

SEC. 12. Section 5600.1 of the Business and Professions Code is amended to read:

5600.1. The board shall give written notice to a licensee 30 days in advance of the regular renewal date and shall give written notice by registered mail 90 days in advance of the expiration of the fifth year that a renewal fee has not been paid.

SEC. 13. Section 5600.2 of the Business and Professions Code is amended to read:

5600.2. Except as otherwise provided in this chapter, a certificate which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect on the last preceding regular renewal date. If a certificate is renewed more than 30 days after its expiration, the certificate holder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the certificate shall continue in effect through the expiration date provided in this chapter which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

A certificate which was not renewed at the time and in the manner provided under the law in effect before October 1, 1961, shall, for the purposes of this article, be considered to have expired on the date that the renewal fee became delinquent. The provisions of this article as amended by the Legislature at its 1961 Regular Session govern the renewal, and the fees payable therefor, of certificates issued before such amendments became operative, as well as certificates issued thereafter.

SEC. 14. Section 5605 of the Business and Professions Code is repealed.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 406

An act to amend Sections 39141.6 and 81131.6 of the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 39141.6 of the Education Code is amended to read:

39141.6. For the purposes of this article and Article 6 (commencing with Section 39210), "school building" does not include (a) any building of a school district or county superintendent of schools which is used solely for classes or programs in outdoor science, conservation, and forestry in accordance with Article 5 (commencing with Section 8760) of Chapter 4 of Part 6 of Division 1 of Title 1 and which does not occupy, in whole or in part, the same parcel of land upon which there is situated any school maintained by the district or county superintendent, or (b) agricultural education laboratory facilities used primarily for plant and animal production or the storage of materials, equipment, and supplies involved in this production.

SEC. 2. Section 81131.6 of the Education Code is amended to read:

81131.6. For the purposes of this article and Article 8 (commencing with Section 81160), "school building" does not include any of the following:

(a) Any building of a community college district which is used solely for classes or programs in outdoor science, conservation, and forestry in accordance with Article 5 (commencing with Section 8760) of Chapter 4 of Part 6 of Division 1 of Title 1, and which does not occupy, in whole or in part, the same parcel of land upon which there is situated any school maintained by the district.

(b) Agricultural facilities that were not built for classroom purposes and which are used primarily for plant and animal production or the storage of materials, equipment, and supplies involved in that production:

(c) Animal kennels and facilities used to house animals as part of an animal health instruction program.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize certain agricultural facilities and animal kennels and facilities used to house animals to be exempted from the approval and supervision of plans and specifications of the so-called "Field Act" at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 407

An act to add Section 42201.1 to the Vehicle Code, relating to vehicles, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 42201.1 is added to the Vehicle Code, to read:

42201.1. Fines and forfeitures received by a county under Section 1463 of the Penal Code may be used to reimburse the state for the construction of platform scales and vehicle inspection facilities in the county.

SEC. 2. Notwithstanding Section 26401 of the Public Resources Code, the sum of three million dollars ($3,000,000) is hereby appropriated from the Special Account for Capital Outlay in the General Fund to the Department of Transportation for allocation by the California Transportation Commission for the construction of one or more platform scales and vehicle inspection facilities on major state highway routes connecting a major metropolitan area where hazardous wastes are generated and a class I disposal site, as defined in Section 25148 of the Health and Safety Code, as determined by the commission, after the commission has included the project or projects in the state transportation improvement program. However, the department shall endeavor to obtain a federal grant or grants available under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), in order to wholly or partially fund this project, and shall deposit any grant money received for this purpose in the Special Account for Capital Outlay as reimbursement for the appropriation made under this section. This appropriation shall take precedence over all other appropriations and transfers from the Special Account for Capital Outlay.

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

The closing of waste disposal sites in major metropolitan areas of this state and the further inability of remaining sites in these areas to take certain hazardous waste has resulted in a very substantial increase in the number of trucks carrying volatile and toxic chemicals on those portions of state highways which connect these metropolitan areas and other, more remote, disposal sites. Since the prompt construction of truck inspection stations would result in a reduction of accidents occurring involving volatile and toxic substances, it is necessary that this act take effect immediately.

CHAPTER 408

An act to amend Section 14133.8 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 14133.8 of the Welfare and Institutions Code is amended to read:

14133.8. (a) A bone marrow transplant for the treatment of cancer for beneficiaries, shall be reimbursable under this chapter, when all of the following conditions are met:

(1) The bone marrow transplant is recommended by the recipient's physician.

(2) The bone marrow transplant is performed in a hospital that is approved for participation in the Medi-Cal program.

(3) The bone marrow transplant is a reasonable course of treatment and is approved by the hospital medical policy committee when there is an existing committee or a committee can be established.

(4) The bone marrow transplant has been deemed appropriate for the recipient by the program's medical consultant. The medical consultant shall not disapprove the bone marrow transplant solely on the basis that it is classified as experimental or investigational.

(5) Full federal financial participation is available for reimbursement for the performance of the bone marrow transplant.

(b) The program shall provide reimbursement for both donor and recipient surgery.

(c) The department may establish inpatient rates of reimbursement not in accordance with the state plan for those hospitals not under contract with the state pursuant to Article 2.6 (commencing with Section 14081), provided that the state plan is subsequently amended to reflect the method of reimbursement.

(d) This section shall not be construed as prohibiting

reimbursement for any bone marrow transplants otherwise provided for under this chapter.

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 prevent potential reductions in federal financial participation under the Medi-Cal program, it is necessary that this act go into immediate effect.

CHAPTER 409

An act to amend Section 8152 of the Fish and Game Code, relating to sardines.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 8152 of the Fish and Game Code is amended to read:

8152. (a) In addition to any other provision of this article, 150 tons of sardines may be taken and possessed for live bait purposes during any calendar year. Sardines may not be taken or possessed for live bait purposes except under a revocable, nontransferable permit issued by the department to a live bait fisherman upon application.

(b) Each permittee shall keep an accurate record of his or her fishing operations in a logbook furnished by the department. The fishery record for each trip shall be completed before any fish is offloaded from the fishing vessel. Fishing records for each month shall be submitted to the department on or before the 10th day of the following month. The department shall keep records of the catch and when it appears that the 150-ton limit will be reached, it shall notify all permitholders of the date when that limit will be reached and after which no sardines may be taken under this section, and shall notify, by certified mail, all permittees of the closure.

(c) The permit may be revoked or suspended by the commission, when requested by the department, for noncompliance with subdivision (b) or upon a conviction for a violation of this article.

(d) If 150 tons of sardines are taken for live bait purposes under this section, sardines may continue to be taken for live bait purposes, as provided for in Sections 8150.5 and 8151.

(e) This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 410

An act to amend Section 10185 of the Public Contract Code, relating to state contracts.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 10185 of the Public Contract Code is amended to read:

10185. If the director deems the acceptance of the lowest responsible bid or bids is not for the best interests of the state, after stating his or her reasons for rejecting the bid or bids, the director may reject all bids and proceed by day's labor or advertise for other bids in the manner required by this part.

CHAPTER 411

An act to add and repeal Chapter 5 (commencing with Section 1310) of Division 6 of the Military and Veterans Code, relating to veterans, and making an appropriation therefor.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Chapter 5 (commencing with Section 1310) is added to Division 6 of the Military and Veterans Code, to read:

CHAPTER 5. VETERANS MEMORIAL

1310. There is in state government the Veterans Memorial Commission composed of nine members, as follows:

(a) Two members appointed by the Speaker of the Assembly, at least one of whom shall be a Member of the Assembly.

(b) Two members appointed by the Senate Committee on Rules, at least one of whom shall be a Member of the Senate.

(c) Five members appointed by the Governor, one of whom shall be a member of the Governor's staff or a Governor's appointee in the executive branch of state government.

The members shall elect one of their number to serve as chairperson.

1311. All members of the commission shall be veterans.

Members of the Legislature shall serve on the commission as ex officio members without vote and shall participate in the activities

of the commission to the extent that the participation is not incompatible with their legislative duties.

Members of the commission shall receive no compensation but, except for the legislative members, shall receive a per diem and expenses while engaged in commission activities.

1312. The commission may request staff support and facilities for its activities from the Department of Veterans Affairs, and the department may provide that support.

1313. (a) The construction of a memorial to California's veterans on the grounds of the State Capitol is hereby authorized. For purposes of this chapter, the grounds of the State Capitol are that property in the City of Sacramento bounded by Ninth, Fifteenth, "L", and "N" Streets. The actual site for the memorial shall be selected by the commission after consultation with the Department of General Services and the State Office of Historic Preservation of the Department of Parks and Recreation.

(b) Funds for the construction of the memorial shall be provided through private contributions. The commission may receive contributions for this purpose.

(c) The commission shall not solicit or receive any funds for construction of the memorial until the Vietnam Veterans Memorial Commission has completed construction of a memorial to California's Vietnam veterans pursuant to Chapter 4 (commencing with Section 1300).

1314. With respect to the design and construction of the memorial, the commission may do all of the following:

(a) Establish a schedule for the design, construction, and dedication of the memorial.

(b) Implement procedures to solicit designs for the memorial and devise a selection process for the choice of the design.

(c) Select individuals or organizations to provide fundraising services and to construct the memorial.

(d) Review and monitor the design and construction of the memorial and establish a program for the dedication of the memorial.

(e) Report to the Legislature through the Assembly Committee on Veterans' Affairs at least once on the progress of the memorial.

1315. The design of the memorial shall be as politically neutral as possible.

1316. (a) The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the commission as a loan for purposes of this chapter. The commission shall reimburse the amount of this appropriation, plus interest at the same rate of interest as that earned by money invested in the Pooled Money Investment Account during the term of the loan, from the first contributions received by the commission under this chapter.

(b) The Veterans Memorial Account in the General Fund is hereby created. All funds received by the commission under this chapter shall be deposited in the account. The money in the account

is hereby continuously appropriated to the commission for purposes of this chapter without regard to fiscal years, notwithstanding Section 13340 of the Government Code.

1317. This chapter shall become operative on July 1, 1986, and shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 412

An act to amend Section 1214 of, and to add Section 1214.5 to, the Penal Code, relating to restitution.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 1214 of the Penal Code is amended to read:

1214. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to Section 13967 of the Government Code, with or without imprisonment, the judgment may be enforced in the manner provided for the enforcement of money judgments generally.

(b) In any case in which a defendant is ordered to pay restitution as a condition of probation or of a conditional sentence, including where restitution is required by Section 1203.04, the order to pay restitution may be enforced in the same manner as is provided for the enforcement of money judgments.

(c) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply to a judgment for any fine ordered pursuant to Section 13967 of the Government Code.

SEC. 2. Section 1214.5 is added to the Penal Code, to read:

1214.5. (a) In any case in which the defendant is ordered to pay more than fifty dollars ($50) in restitution as a condition of probation, the court may, as an additional condition of probation since the court determines that the defendant has the ability to pay, as defined in Section 1203.1b(b), order the defendant to pay interest at the rate of 10 percent per annum on the principal amount remaining unsatisfied.

(b) (1) Except as provided in paragraph (2), interest commences to accrue on the date of entry of the judgment or order.

(2) Unless the judgment or order otherwise provides, if restitution is payable in installments, interest commences to accrue as to each installment on the date the installment becomes due.

CHAPTER 413

An act to amend Sections 7681 and 7684 of the Labor Code, relating to worker safety.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 7681 of the Labor Code is amended to read:

7681. (a) The division shall inspect or cause to be inspected each installed tank at least every five years, except for any tank specified in subdivision (b). Tanks described in subdivision (b) and put into service before January 1, 1981, shall be inspected once for permit purposes after January 1, 1981.

(b) Any air pressure tank which contains 25 cubic feet or less and is not subject to pressure of more than 150 pounds per square inch and any liquefied petroleum gas tank used for storage, except a tank used for dispensing purposes as part of a dispensing unit, which contains 575 gallons or less shall be inspected or caused to be inspected by the division when the tank is initially placed into service if the tank is constructed, inspected and stamped in compliance with the American Society of Mechanical Engineers (ASME) Code, or the design, material, and construction of the tank is approved by the division as equivalent to the ASME Code.

(c) "Dispensing unit," as used in this section, means a stationary liquefied petroleum gas installation, other than a bulk plant, from which a product is dispensed, for final utilization, into mobile fuel tanks or portable cylinders.

SEC. 2. Section 7684 of the Labor Code is amended to read:

7684. Each permit or a clear reproduced copy thereof shall be posted in a protective container in a conspicuous place on or near the tank or boiler covered by it.

CHAPTER 414

An act to amend Sections 42400 and 42402 of the Health and Safety Code, relating to air pollution.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 42400 of the Health and Safety Code is amended to read:

42400. (a) Any person who violates any provision of this part, or

any order, permit, rule, or regulation of the state board or of a district, including a district hearing board, adopted pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is guilty of a misdemeanor and is subject to a fine not to exceed one thousand dollars ($1,000), or imprisonment in the county jail for a period not to exceed six months, or both.

(b) Every day during any portion of which the violation occurs constitutes a separate offense.

(c) If a violation under subdivision (a) with regard to the failure to operate a vapor recovery system on a gasoline cargo tank is directly caused by the actions of an employee under the supervision of, or of any independent contractor working for, any person subject to this part, the employee or independent contractor, as the case may be, causing the violation is guilty of a misdemeanor. That liability shall not extend to the person employing the employee or retaining the independent contractor, unless that person is separately guilty of any action violating any provision of this part.

SEC. 2. Section 42402 of the Health and Safety Code is amended to read:

42402. (a) Any person who violates any provision of this part, or any order issued pursuant to Section 42316, or any order, permit, rule or regulation of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is liable for a civil penalty not to exceed one thousand dollars ($1,000) for each day in which the violation occurs. Any action brought under this section for recovery of a civil penalty precludes prosecution under Section 42400 for the same offense.

(b) There is no liability under subdivision (a), if the person accused of the violation alleges by affirmative defense and establishes that the violation is caused by an act which was not the result of intentional or negligent conduct.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 415

An act relating to museums, and making an appropriation therefor.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. (a) The Legislature finds and declares:

(1) That it is vital that the people of California be informed and advised about the roots of hatred, bigotry, and prejudice, which have so adversely affected the lives and well-being of so many human beings, through such mass murder as the Armenian Genocide and the Nazi Holocaust and other genocides, and the continuing discrimination against racial minorities in our own country, all in order that these inhumanities cease.

(2) That the Simon Wiesenthal Center's new Museum of Tolerance, which is under construction and scheduled for occupancy in 1986, will be the only museum of its kind in the world explicitly intended and designed to explore the issues and roots of prejudice, tolerance and intolerance, aggression, bigotry, and anti-Semitism (including the Holocaust) through a computer-based installation in a museum context, all in a way that seeks to challenge the visitor's notions about himself or herself and society through a carefully programmed learning experience.

(3) That this museum and the exhibits contained therein will serve a statewide public purpose by informing the public of the devastating consequences to society as a whole, with respect to both present and future generations, as a result of prejudice against a segment of that society, and the root causes thereof.

(b) It is the intent of the Legislature that:

(1) The museum shall be operated for a general public educational purpose, and in a nonsectarian, nonreligious manner.

(2) The Board of Trustees of the Simon Wiesenthal Center of Los Angeles shall convene a broad-based Museum Advisory Committee, representing business, community groups, educational institutions, the Legislature, and the Governor. The advisory committee shall review the exhibits and activities of the museum and advise the board thereon.

(3) One member of the advisory committee shall be appointed by the Speaker of the Assembly, and one member of the advisory committee shall be appointed by the Senate Rules Committee.

(4) One member of the advisory committee shall be appointed by the Governor.

SEC. 2. (a) The sum of five million dollars ($5,000,000) is hereby appropriated. without regard to fiscal years, from the General Fund to the Controller for allocation to the Simon Wiesenthal Center of Los Angeles for purposes of building the Simon Wiesenthal Center's new Museum of Tolerance and acquiring therefor exhibits relating to man's inhumanity to man, past and present.

(b) The funds appropriated by subdivision (a) shall not be encumbered unless the State of California and the Simon Wiesenthal Center of Los Angeles execute an agreement, which shall provide that:

(1) By January 1, 1987, the Simon Wiesenthal Center of Los

Angeles shall raise, and encumber, at least five million dollars ($5,000,000) of funds from private sources, for the purposes indicated in subdivision (a).

(2) If the condition set forth in paragraph (1) is not met, any portion of the funds appropriated by subdivision (a) which has not been matched dollar-for-dollar by private funds raised and encumbered by the Simon Wiesenthal Center of Los Angeles in accordance with paragraph (1), shall be a loan from the State of California to the Simon Wiesenthal Center of Los Angeles. This loan shall be repaid in full on or before January 1, 1988, with interest thereon to be calculated at the same rate earned by moneys in the Pooled Money Investment Account.

SEC. 3. The Simon Wiesenthal Center of Los Angeles shall submit a report on the status of the funding arrangement of the new Museum of Tolerance to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the legislative fiscal committees on or before March 1, 1987.

CHAPTER 416

An act to amend Sections 980, 985, 987.53, 987.566, 987.57, 987.603, 987.74, 987.85, 987.93, and 987.94 of, to add Section 980.5 to, and to repeal Sections 987.565, 987.657, 987.66, and 987.70 of, the Military and Veterans Code, relating to veterans' farm and home purchases.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 980 of the Military and Veterans Code is amended to read:

980. (a) As used in this chapter, "veteran" means either of the following:

(1) Any citizen of the United States who served in the active military, naval, or air service of the United States on or after April 6, 1917, and prior to November 12, 1918; received an honorable discharge or was released from active duty under honorable conditions; was, at the time of entry into active duty, a native of or a bona fide resident of this state or, if a minor at that time, entered active duty while in this state; and had lived in this state for six months immediately preceding entry into active duty.

(2) Any person who served in the active military, naval, or air service of the United States for a period of not less than 90 consecutive days or was discharged from the service due to a service-connected disability within that 90-day period; received an honorable discharge or was released from active duty under honorable conditions; was at the time of entry into active duty a

native of or bona fide resident of this state or, if a minor at that time, entered active duty while in this state and had lived in this state for six months immediately preceding entry into active duty; and performed any portion of that service during any of the following periods:

(A) On or after December 7, 1941, and prior to January 1, 1947.

(B) On or after June 27, 1950, and prior to February 1, 1955.

(C) On or after August 5, 1964, and prior to May 8, 1975.

(D) In time of peace, in a campaign or expedition for service in which a medal has been authorized by the government of the United States.

(b) This chapter does not include any of the following:

(1) A person who was separated from the armed forces under other than honorable conditions.

(2) A person who was separated from the armed forces on account of alienage.

(3) A person who performed no military duty whatever or refused to wear the uniform.

(4) A person who has received from another state a bonus, compensation, or benefit, the prerequisite of which is service in the armed forces, which service is the basis for the claim of benefits under this chapter.

(5) A person who served only in an auxiliary or reserve component of the armed forces whose service therein did not provide an exemption from the operation of the Selective Training and Service Act of 1940 (54 Stat. 885, as amended).

(6) A person whose service with the armed forces was due to temporary active duty orders for the sole purpose of training duty, processing, or a physical examination.

(7) A person whose only service during a qualifying period was as a student at a military academy and who, for any reason, failed to complete the course of study and subsequently did not serve on active duty.

SEC. 2. Section 980.5 is added to the Military and Veterans Code, to read:

980.5. In the event of any conflict between any provision of this chapter and the federal Mortgage Subsidy Bond Tax Act of 1980 (P.L. 96-499; 94 Stat. 2660), including any amendment thereto and any regulation issued thereunder, the department shall comply with that federal law or regulation and any other federal law or regulation to the extent necessary to maintain the tax-exempt status of any issue of general obligation or revenue bonds.

Any prior action of the department to effect that compliance is hereby confirmed and ratified, it having been at all times the intent of the Legislature that the tax-exempt status of those bonds be maintained.

SEC. 3. Section 985 of the Military and Veterans Code is amended to read:

985. As used in this article:

(a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficiently to provide a living for the purchaser and the purchaser's dependents.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and other buildings that will, in the opinion of the department, suit the needs of the purchaser and the purchaser's dependents as a place of abode. "Home" includes a "condominium," as defined in subdivision (h). "Home" also includes a "mobilehome" as defined in subdivision (k).

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) "Progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) "Condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on the real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and the purchaser's dependents as a place of abode. A condominium may include, in addition, a separate interest in other portions of the real property.

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject and the interest rate on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) "Mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is situated a mobilehome that will, in the opinion of the department, suit the needs of the purchaser and the purchaser's dependents as a place of abode and meets all requirements of local governmental jurisdictions.

(*l*) "Immediate family" means the spouse of a purchaser, the natural or adopted dependent children of the purchaser, and the parents of the purchaser if they are dependent on the purchaser for 50 percent or more of their support.

SEC. 4. Section 987.53 of the Military and Veterans Code is amended to read:

987.53. As used in this article:

(a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient income to provide payment of the amortized contract installments, including principal, interest, and taxes.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and other buildings that will, in the opinion of the department, suit the needs of the purchaser and the purchaser's dependents as a place of abode. "Home" includes a "condominium," as defined in subdivision (h). "Home" also includes a "mobilehome" as defined in subdivision (k).

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) "Progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) "Condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on the real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and the purchaser's dependents as a place of abode. A condominium may include, in addition, a separate interest in other portions of the real property.

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) "Mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is sited one or more mobilehome modules, or a site in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, on which one or more mobilehome modules is sited or is to be sited that will, in the opinion of the department, suit the needs of the purchaser and the purchaser's dependents as a place of abode and meets all requirements of local governmental jurisdictions. However, where the mobilehome module or modules are situated on trust land, "local governmental jurisdictions" means the tribal governing body.

For purposes of this subdivision, "module" means a section of a

mobilehome at least 10 feet wide and at least 40 feet long.

(*l*) "Indian veteran" means a veteran, as defined in Section 980, who is, in addition, a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase by the department of a home or farm situated on trust land.

(m) "Trust land," with respect to an Indian veteran, includes allotment trust land and tribal trust land.

(n) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common. It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation.

(o) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band.

(p) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs.

(q) "Immediate family" means the spouse of a purchaser, the natural or adopted dependent children of the purchaser, and the parents of the purchaser if they are dependent on the purchaser for 50 percent or more of their support.

SEC. 5. Section 987.565 of the Military and Veterans Code is repealed.

SEC. 6. Section 987.566 of the Military and Veterans Code is amended to read:

987.566. Whenever applications exceed the amount of funds available, the department may establish a date so as to provide funding to veterans whose applications were filed on or before that date, and whose applications are subsequently approved, before funding is made available to those whose applications are filed after the date, except that the department may establish the date only once in each calendar year.

SEC. 7. Section 987.57 of the Military and Veterans Code is amended to read:

987.57. All applications for the benefits contained in this article shall be filed with the department within 25 years from the date of the applicant's discharge from the service, or release from active duty, except applications filed by either of the following:

(1) Veterans who were wounded or are disabled as a result of wartime service.

(2) Veterans who were previously declared prisoners of war.

SEC. 8. Section 987.603 of the Military and Veterans Code is amended to read:

987.603. The department may acquire a leasehold interest in trust

land and contract with an Indian veteran as provided in Sections 987.601 and 987.602 upon the terms agreed if all of the following conditions are met:

(a) The department is satisfied of the desirability of the property submitted.

(b) The Indian veteran has agreed with the department that the veteran, or members of the veteran's immediate family, will actually reside on the property within 60 days from the date of acquisition by the department, or if the residence on the property is not complete on the date of acquisition, within 60 days after the residence is completed.

(c) The sum to be expended by the department pursuant to a contract for the acquisition of a home or the construction of a dwelling house and other improvements does not exceed seventy-five thousand dollars ($75,000).

(d) The Indian veteran has paid a reasonable fee set by the department to cover the cost of preliminary service of the department that may be necessary to process the application.

(e) The Indian veteran has filed with the department adequate plans and specifications for the improvements to be constructed upon the real property, together with a contract executed by a contractor licensed by the State of California or by an Indian contractor approved by the department for the construction of the improvements, in accordance with the plans and specifications, within eight months after the acquisition of the leasehold interest in the real property by the department, and a bond executed by the contractor providing for compliance with the terms of the contract and for the payment of materialmen and labor furnishing material or labor on the job, executed by a surety company, authorized to do business in the State of California.

(f) The plans, specifications, contract, and bond are approved by the department.

(g) The Indian veteran has placed in escrow all sums of money to be advanced by the veteran where the cost is in excess of the maximum that may be expended by the department.

SEC. 9. Section 987.657 of the Military and Veterans Code is repealed.

SEC. 10. Section 987.66 of the Military and Veterans Code is repealed.

SEC. 11. Section 987.70 of the Military and Veterans Code is repealed.

SEC. 12. Section 987.74 of the Military and Veterans Code is amended to read:

987.74. (a) The contract made between the department and the purchaser shall provide that the purchaser maintain the farm or home as his or her place of residence and keep in good order and repair all buildings, fences, and other permanent improvements situated thereon. The purchaser shall insure and keep insured against fire and other hazards, all buildings, fences, other permanent

improvements, and crops on the property. All policies shall be written with any loss payable to the department and the purchaser as their interests may appear. Insurance shall be in the amount, with the insurance companies, and under the terms and conditions as may be specified by the department.

(b) The department may establish in each case an initial minimum amount of insurance necessary to protect its interests under the contract and may require the purchaser to obtain not less than that amount of insurance. The purchaser shall be solely responsible for requesting in writing and maintaining any additional amounts of insurance necessary to protect his or her interest in the property, and shall bear the risk of any loss in excess of the amount of insurance in force at the time of the loss.

SEC. 13. Section 987.85 of the Military and Veterans Code is amended to read:

987.85. The department shall not acquire a home in which the veteran has an interest of record except in the following instances:

(a) Where the application is for aid for the construction of a home upon real property owned by the applicant and the improvements to be constructed thereon have not reached completion as evidenced by the issuance of a certificate of occupancy.

(b) Where the veteran had no interest of record in the property at the time of filing his application and thereafter secured interim financing pending the processing and approval of his application by the department.

(c) Where the application is for the purchase of a mobilehome to be situated upon real property, or an undivided interest therein, owned by the applicant.

(d) Where the applicant is an Indian veteran and the application is for the construction of a dwelling house or other improvements on, or for the purchase of a mobilehome to be situated on, trust land in which the Indian veteran has an interest of record.

SEC. 14. Section 987.93 of the Military and Veterans Code is amended to read:

987.93. (a) On or before February 1 of each year, the department shall submit to the Legislature a report on the utilization of veterans farm and home loan funds by lower income veterans, including an annual summary of the amounts and loan-to-value ratios of loans offered to lower income veterans, the number of lower income veterans who are rejected because of insufficient income, or who declined loan offers because of inability to afford downpayments, and of the utilization of lower initial monthly payments and longer term financing to make financing available to lower income veterans. The report shall incorporate the reports required by Section 5 of Chapter 1477 of the Statutes of 1974.

(b) On or before February 1 of every even-numbered year, the department shall submit to the Legislature a report on all of the following:

(1) The number of leasehold interests acquired on trust land.

(2) The forfeiture rate on loans secured by leasehold interest on trust land.

(3) The dispositon of forfeited leasehold interests on trust land.

SEC. 15. Section 987.94 of the Military and Veterans Code is amended to read:

987.94. The department shall allocate, reserve, or set aside in the Veterans' Farm and Home Building Fund of 1943 a sum equal to 2.5 percent of the amount of each issue of authorized general obligation bonds for a one-year period, commencing on the date the issue is sold, for the construction, purchase, or improvement of homes equipped with, or to be improved by, the installation of solar energy heating devices. Solar energy heating devices for swimming pools, hot tubs, saunas, and spas do not qualify for any expenditure pursuant to this section.

CHAPTER 417

An act relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Pursuant to Section 5096.96 of the Public Resources Code, the Yermo Community Services District may sell to any public entity or private party the real property known as East Park, which was developed with a grant of state funds appropriated in category (231) of Item 390 of the Budget Act of 1975 (Chapter 176, Statutes of 1975) and pursuant to Department of Parks and Recreation project #36-0052, subject to all of the following conditions:

(a) The park and all improvements thereon shall be sold for at least fair market value, but in no event for less than the sum of four thousand two hundred eight dollars ($4,208), excluding the costs of sale.

(b) All proceeds of the sale, excluding the costs of sale, shall be expended only for the acquisition or development, or both, of outdoor park and recreation facilities in the district. Any proceeds not expended for this purpose shall be transmitted to the Department of Parks and Recreation and deposited in the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

(c) Prior to transferring title to the park, the board of directors of the district shall hold one or more public hearings on the subject of the new facilities to be acquired or developed with the proceeds of the sale and shall determine what new facilities shall be acquired or developed.

(d) Prior to encumbering any proceeds from the sale, the district

shall enter into an agreement with the Department of Parks and Recreation with respect to the facilities to be acquired or developed as provided in Section 5096.96 of the Public Resources Code.

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 Yermo Community Services District may sell unusable park facilities and may acquire or develop replacement park and recreational facilities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 418

An act to amend Sections 21093 and 21094 of the Public Resources Code, relating to environmental quality.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 21093 of the Public Resources Code is amended to read:

21093. (a) The Legislature finds and declares that tiering of environmental impact reports will promote construction of needed housing and other development projects by (1) streamlining regulatory procedures, (2) avoiding repetitive discussions of the same issues in successive environmental impact reports, and (3) ensuring that environmental impact reports prepared for later projects which are consistent with a previously approved policy, plan, program, or ordinance concentrate upon environmental effects which may be mitigated or avoided in connection with the decision on each later project. The Legislature further finds and declares that tiering is appropriate when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports.

(b) To achieve this purpose, environmental impact reports shall be tiered whenever feasible, as determined by the lead agency.

SEC. 2. Section 21094 of the Public Resources Code is amended to read:

21094. (a) Where a prior environmental impact report has been prepared and certified for a program, plan, policy, or ordinance, the lead agency for a later project that meets the requirements of this section shall examine significant effects of the later project upon the environment by using a tiered environmental impact report, except that the report on the later project need not examine those effects

which the lead agency determines were either (1) mitigated or avoided pursuant to subdivision (a) of Section 21081 as a result of the prior environmental impact report, or (2) examined at a sufficient level of detail in the prior environmental impact report to enable those effects to be mitigated or avoided by site specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project.

(b) This section applies only to a later project which the lead agency determines (1) is consistent with the program, plan, policy, or ordinance for which an environmental impact report has been prepared and certified, (2) is consistent with applicable local land use plans and zoning of the city, county, or city and county in which the later project would be located, and (3) is not subject to Section 21166.

(c) For purposes of compliance with this section, an initial study shall be prepared to assist the lead agency in making the determinations required by this section. The initial study shall analyze whether the later project may cause significant effects on the environment that were not examined in the prior environmental impact report.

(d) All public agencies which propose to carry out or approve the later project may utilize the prior environmental impact report and the environmental impact report on the later project to fulfill the requirements of Section 21081.

(e) When tiering is used pursuant to this section, an environmental impact report prepared for a later project shall refer to the prior environmental impact report and state where a copy of the prior environmental impact report may be examined.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 419

An act to amend Sections 4351, 4700, 4700.9, and 4800.7 of the Civil Code, relating to family law.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 4351 of the Civil Code is amended to read:

4351. In proceedings under this part, the superior court has jurisdiction to inquire into and render any judgment and make such orders as are appropriate concerning the status of the marriage, the

custody and support of minor children of the marriage and children for whom support is authorized under Section 206, the support of either party, the settlement of the property rights of the parties and the award of attorneys' fees and costs; provided, however, no such order or judgment shall be enforceable against an employee pension benefit plan unless the plan has been joined as a party to the proceeding.

SEC. 2. Section 4700 of the Civil Code is amended to read:

4700. (a) In any proceeding where there is at issue the support of a minor child or a child for whom support is authorized under Section 206, the court may order either or both parents to pay any amount necessary for the support, maintenance, and education of the child. At the request of either party, the court shall make appropriate findings with respect to the circumstances on which the order for the support of a minor child is based. Upon a showing of good cause, the court may order the parent or parents required to make the payment of support to give reasonable security therefor. All payments of support shall be made by the person owing the support payment prior to the payment of any debts owing to creditors. Any order for child support may be modified or revoked as the court may deem necessary, except as to any amount that may have accrued prior to the date of the filing of the notice of motion or order to show cause to modify or revoke. The order of modification or revocation may be made retroactive to the date of the filing of the notice of motion or order to show cause to modify or revoke, or to any date subsequent thereto. The order of modification or revocation may include an award of attorney fees and court costs to the prevailing party.

(b) When a court orders a person to make specified payments for support of a child during the child's minority, or until the child is married or otherwise emancipated, or until the death of, or the occurrence of a specified event as to, a child for whom support is authorized under Section 206, the liability of the person ordered to pay support terminates upon the happening of the contingency. If the custodial parent or other person having physical custody of the child, to whom payments are to be made, fails to notify the person ordered to make such payments, or the attorney of record of the person ordered to pay support, of the happening of the contingency, and continues to accept support payments, the person shall refund any and all moneys received which accrued after the happening of the contingency, except that the overpayments shall first be applied to any and all support payments which are then in default. The court may, in the original order for support, order the custodial parent or other person to whom payments are to be made to notify the person ordered to make the payments, or his or her attorney of record, of the happening of the contingency.

(c) In the event obligations for support of a child are discharged in bankruptcy, the court may make all proper orders for the support, maintenance and education of the child, as the court may deem just.

SEC. 3. Section 4700.9 of the Civil Code is amended to read:

4700.9. Notwithstanding any other provision of law, the court shall have the authority to approve a stipulated agreement by the parties to pay child support for the support of any adult children or for the continuation of child support after a child attains the age of 18. These child support orders shall be enforced in the same manner as any other award of child support, including, but not limited to, contempt.

SEC. 4. Section 4800.7 of the Civil Code is amended to read:

4800.7. (a) As used in this section, "family home award" means an order that awards temporary use of the family home to the party having custody of minor children and children for whom support is authorized under Section 206 in order to minimize the adverse impact of dissolution or legal separation on the welfare of the children.

(b) Except as otherwise agreed to by the parties in writing:

(1) A family home award may be modified or terminated at any time at the discretion of the court.

(2) If the party awarded the temporary use of the family home remarries, or there is otherwise a change in circumstances affecting the economic status of the parties or the children on which the award is based, a rebuttable presumption, affecting the burden of proof, is created that further delay in the sale of the family home and division of the proceeds of the sale is no longer an equitable method of minimizing the adverse impact of the dissolution or legal separation on the welfare of the children.

(c) The provisions of this section are applicable regardless of whether the family home award is made before or after January 1, 1985.

CHAPTER 420

An act to add Section 23509.2 to the Elections Code, and to repeal and add Chapter 9 (commencing with Section 13625) of Division 7 of the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 23509.2 is added to the Elections Code, to read:

23509.2. (a) Notwithstanding any other provision of law, the governing board of the Marina County Water District in the County of Monterey may adopt a resolution requiring its general district election to be held on the same day as the statewide direct primary

election or the day of the statewide general election.

(b) If an election is held pursuant to subdivision (a), and the election is consolidated with another election, the provisions contained in Part 2.5 (commencing with Section 23300) shall govern the consolidation, and, if the county clerk is requested to conduct the election, Section 22003 shall apply to that election.

(c) If, pursuant to subdivision (a), a general district election is held on the same day as a statewide election, those officers whose four-year terms of office would have, prior to the adoption of the resolution, expired on the last Friday in November following the general district election in an odd-numbered year shall, instead, either continue in their offices until no later than the fourth Tuesday after the day of the general district election or, at the option of the governing board, cease to hold office prior to the expiration of their four-year term and upon the qualification of their successors at the time prescribed by the governing board.

SEC. 2. Chapter 9 (commencing with Section 13625) of Division 7 of the Water Code is repealed.

SEC. 3. Chapter 9 (commencing with Section 13625) is added to Division 7 of the Water Code, to read:

CHAPTER 9. MUNICIPAL WASTE WATER TREATMENT PLANT CLASSIFICATION AND OPERATOR CERTIFICATION

13625. As used in this chapter:

(a) "Certificate" means a certificate of competency issued by the state board stating that the supervisor or operator has met the requirements for a specific classification in the certification program.

(b) "Municipal waste water treatment plant" means the various facilities owned by a state or local agency and used in the treatment or reclamation of sewage and industrial wastes.

(c) "Operator" means any person who operates a municipal or private utility waste water treatment plant.

(d) "Private utility waste water treatment plant" means any of those various facilities which are privately owned, used in the treatment or reclamation of sewage and industrial wastes, and regulated by the Public Utilities Commission pursuant to Sections 216 and 230.6 of, and Chapter 4 (commencing with Section 701) of Part 1 of Division 1 of, the Public Utilities Code.

(e) "Supervisor" means any person who has direct responsibility for the operation of a municipal or private utility waste water treatment plant or who supervises any operators of such a plant.

13626. The state board shall classify types of municipal or private utility waste water treatment plants for the purpose of determining the levels of competence necessary to operate them. The state board shall adopt regulations setting forth the types of plants and the factors on which the state board based its classification.

13627. (a) Supervisors and operators of municipal or private utility waste water treatment plants shall possess a certificate of

appropriate grade in accordance with, and to the extent recommended by the advisory committee and required by, regulations adopted by the state board. The state board shall develop and specify in its regulations the training necessary to qualify a supervisor or operator for certification for each type and class of plant. The state board may accept experience in lieu of qualification training. In lieu of a properly certified waste water treatment plant operator, the state board may approve use of a water treatment plant operator of appropriate grade certified by the State Department of Health Services, where water reclamation is involved.

(b) A person employed as a municipal or private utility waste water treatment plant supervisor or operator on the effective date of regulations adopted pursuant to this chapter shall be issued an appropriate certificate if the person meets the training, education, and experience requirements prescribed by regulations.

(c) The state board may refuse to grant, suspend, or revoke any certificate issued by the state board to operate a municipal or private utility waste water treatment plant, or may place on probation, or reprimand, the certificate holder upon any reasonable ground, including, but not limited to, all of the following reasons:

(1) Submitting false or misleading information on an application for a certificate.

(2) The employment of fraud or deception in the course of operating the municipal or private utility waste water treatment plant.

(3) A certificate holder's failure to use reasonable care or judgment in the operation of the plant.

(4) A certificate holder's inability to perform operating duties properly.

(5) Willfully or negligently violating, or causing, or allowing the violation of, waste discharge requirements or permits issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

(d) The state board shall conduct all proceedings for the refusal to grant a certificate, and suspension or revocation of a certificate, pursuant to subdivision (c), in accordance with the rules adopted pursuant to Section 185.

13628. Certificates issued pursuant to this chapter shall be renewed biennially, subject to compliance by applicants with renewal requirements prescribed by regulations. Fees shall be payable to the state board at the time of issuance of a certificate and at the time of renewal. The state board shall establish a fee schedule to provide revenues to cover the cost of this program.

13629. The state board may approve courses of instruction at higher educational institutions which will qualify operators for each grade of certification. The state board shall also approve courses of instruction given by professional associations, or other nonprofit private or public agencies which shall be deemed equivalent to courses of instruction given by higher educational institutions.

13630. The state board is the state agency which is authorized to represent the state and its local governmental agencies in administering any federal or state funds available for municipal or private utility waste water treatment plant operator training. The state board may provide technical and financial assistance to organizations providing operator training programs.

13631. Prior to adopting or amending any regulations or approving any courses for operator training, the state board shall appoint an advisory committee to assist it in carrying out its responsibilities under this chapter.

13632. The advisory committee appointed pursuant to Section 13631 shall consist of the following:

(a) Two persons from a statewide organization representing municipal or private utility waste water treatment plant operators and supervisors, who shall be employed in a waste water treatment plant as an operator or supervisor.

(b) Two persons from statewide organizations representing municipalities, including counties, or private utility waste water treatment plant operators.

(c) Two persons from statewide organizations representing local sanitation agencies, other than municipalities.

(d) One person who is a professional engineer specializing in sanitary engineering.

(e) One person from a university or a state university school or division of engineering.

(f) One person who is a member of an organized labor union which represents waste water treatment plant operators.

13633. The advisory committee shall review all proposed regulations and make recommendations to the state board prior to adoption of any regulations or amendments thereto.

SEC. 4. The Legislature hereby finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, as this act concerns one of the smallest water districts in the state which needs to conserve its financial resources by consolidating its elections with the statewide elections.

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 allow the Marina County Water District to consolidate its elections with the statewide elections so that the district need not hold a district election in 1985, and to require supervisors and operators of private utility waste water treatment plants to possess certificates of competency as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 421

An act to add Section 23104.6 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 23104.6 is added to the Business and Professions Code, to read:

23104.6. (a) Any nonlicensed person owning bottled vintage wine purchased by that person at retail, is authorized to sell that wine to a licensee authorized to sell that wine if each bottle has a permanently affixed label stating that the wine was acquired from a private collection.

(b) "Vintage wine," as used in this section, means bottled white, rose, or sparkling wine which is not less than five years old or bottled red wine which is not less than 10 years old.

CHAPTER 422

An act to amend Sections 3734, 3738, and 3775 of, and to add Sections 3735.5 and 3739 to, the Business and Professions Code, relating to respiratory therapy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 3734 of the Business and Professions Code is amended to read:

3734. (a) An applicant whose application is based on a diploma issued to the applicant by a foreign respiratory therapy school or a certificate or license issued by another state, district, or territory of the United States, shall furnish documentary evidence, satisfactory to the examining committee, that he or she has completed a respiratory therapy school or a course of professional instruction equivalent to that required in Section 3740, for a respiratory care practitioner applicant.

(b) An applicant who has filed a respiratory care practitioner application under this section with the committee may, between the date of receipt of notice that his or her application is on file and the date of receipt of his or her certificate, perform as a respiratory care practitioner under the direct and immediate supervision of a

respiratory care practitioner certified in this state.

During the application period, such an applicant shall be identified only as a "respiratory care practitioner certification applicant."

If the applicant under this section does not qualify and receive a certificate as provided in this section, and does not qualify under Section 3737, all privileges under this section shall automatically cease on the date specified by the examining committee.

(c) Before a certificate may be issued, the applicant shall meet the requirements of subdivision (a), and shall pass the written examination as provided in this chapter within one year of application.

(d) If an applicant shall fail to take the next succeeding examination without due cause or fails to pass the examination and receive a certificate, all privileges under this section shall automatically cease on the date specified by the examining committee.

(e) Nothing contained in this section shall prohibit the examining committee from disapproving any foreign respiratory therapy school, nor from denying the applicant if, in the opinion of the examining committee, the instruction received by the applicant or the courses were not equivalent to that required in this chapter for a respiratory care practitioner certification applicant.

SEC. 2. Section 3735.5 is added to the Business and Professions Code, to read:

3735.5. The requirements to pass the written examination shall not apply to an applicant who at the time of his or her application has passed, to the satisfaction of the examining committee, an examination for credentialing that is, in the opinion of the examining committee, equivalent to the examination given in this state.

SEC. 3. Section 3738 of the Business and Professions Code is amended to read:

3738. For a period, not to exceed two years following the effective date of this chapter, any individual actively engaged in the practice of respiratory therapy as defined in this chapter may continue to engage in the practice of respiratory care without being certified.

A person currently performing as a respiratory care practitioner, who provides acceptable documentation to the committee, may apply for certification as a respiratory care practitioner at any time within two years after the effective date of this chapter. Upon approval by the examining committee, the board shall issue a certificate without examination.

An applicant who has filed a respiratory care practitioner application under this section with the committee may, between the date of receipt of notice that his or her application is on file and the date of his or her certification, perform as a respiratory care practitioner for a period not to exceed 90 days beyond June 30, 1985.

During the 90 days following June 30, 1985, the applicant shall practice under the supervision of a medical director and shall be

identified only as a "respiratory care practitioner certification applicant."

If the applicant under this section does not qualify for and receive a certificate as provided in this section, all privileges under this section shall automatically cease on the date specified by the examining committee.

All applications filed under this section must be postmarked no later than June 30, 1985.

SEC. 4. Section 3739 is added to the Business and Professions Code, to read:

3739. Every graduate of an approved respiratory care program who has filed an initial respiratory care practitioner application with the committee may, between the date of receipt of notice that his initial application is on file and the date of receipt of his license, perform as respiratory care practitioner under the direct supervision of a respiratory care practitioner licensed in this state. During this period such an applicant shall identify himself only as a "respiratory care practitioner certification applicant."

If an applicant does not take the next succeeding examination without due cause, or fails to pass the examination and receive a certificate, all privileges under this section shall automatically cease on the date specified by the examining committee.

SEC. 5. Section 3775 of the Business and Professions Code is amended to read:

3775. The amount of fees provided in connection with certificates or approvals for the practice of respiratory care is as follows:

(a) The application fee shall be fixed by the examining committee at not more than one hundred fifty dollars ($150). The application fee for the applicant under Section 3734 shall be fixed by the examining committee at not more than two hundred dollars ($200).

(b) The reexamination fee shall be fixed by the examining committee at not more than one hundred dollars ($100).

(c) The initial certificate fee for a respiratory care practitioner is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that if the certificate will expire less than one year after its issuance, then the initial certificate fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The examining committee may by regulation provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(d) The renewal fee shall be fixed by the examining committee at not more than one hundred fifty dollars ($150).

(e) The delinquency fee shall be 50 percent of the renewal fee in effect, but not more than fifty dollars ($50).

(f) The duplicate certificate fee is ten dollars ($10).

(g) The endorsement fee is five dollars ($5).

(h) The fee for approval of providers of continued education shall

be fixed by the examining committee at not more than one hundred dollars ($100).

(i) The fee for approval of education training programs shall be fixed by the examining committee at not more than one hundred dollars ($100). The examining committee may establish a renewal fee not to exceed one hundred dollars ($100) for education training programs and fix the term of the renewal period at not less than two years.

(j) The fee for examination shall be fixed by the examining committee at not more than one hundred dollars ($100).

(k) The biennial renewal fee for continuing education providers shall be fixed by the examining committee at not more than one hundred dollars ($100).

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 that qualified applicants for respiratory care practitioner certificates may continue practicing during the time their applications are being processed and to clarify the power to assess certain fees, it is necessary that this act go into immediate effect.

CHAPTER 423

An act to add and repeal Title 6.8 (commencing with Section 13980) to Part 4 of the Penal Code, relating to narcotics, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Title 6.8 (commencing with Section 13980) is added to Part 4 of the Penal Code, to read:

TITLE 6.8. TARGETED URBAN CRIME NARCOTICS TASK FORCE

13980. The Legislature makes the following findings and declarations:

(a) There exists a serious narcotics crime enforcement problem affecting urban areas throughout the state.

(b) These crimes indicate a complex level of planning and execution and are perpetuated and aided by the inability of the overall criminal justice system to respond effectively.

(c) There is currently no program funded specifically to promote

the interagency coordination and response necessary to effectively mitigate and prevent these crimes.

(d) There exists a need for local government jurisdictions to acquire, establish, and practice to the fullest extent possible law enforcement and prosecution techniques that would effectively discourage the commission of these crimes.

(e) The Legislature intends to support a pilot program to test and establish effective organizational and operational techniques that will have statewide application in the prevention, enforcement, and prosecution of these crimes.

(f) The Legislature finds that Alameda County is uniquely situated for this pilot program because of increasing patterns of violent drug gang activities in the urban areas of Oakland and Berkeley. In the last two years, 62 drug-related homicides have occurred in Oakland, including two police officers. The courts have been severely impacted and there are 450 felony drug cases awaiting preliminary hearing and 250 pending felony drug trials in the Alameda County Superior Court.

13981. There shall be two-year pilot project, operative only in Alameda County, which shall be known as the Targeted Urban Crime Narcotics Task Force. The Task Force shall consist of at least nine representatives from local governmental agencies including, but not limited to, representatives from the district attorney, superior and municipal courts, county probation department, public defender, sheriff, and local, state, and federal law enforcement agencies. The Alameda County Board of Supervisors shall be the appointing authority.

13982. All moneys provided for the project shall be administered by the Office of Criminal Justice Planning. The office shall monitor the progress of the project and report to the Legislature on or before July 1, 1987, on the project's impact.

13983. (a) The goal of this project is to discourage the commission of narcotics crimes by demonstrating the effective response of the criminal justice system to narcotics violations, including, but not limited to, violations of Sections 11350, 11351, 11352, 11378, 11378.5, 11379, and 11379.5 of the Health and Safety Code.

(b) The pilot project shall have the following objectives:

(1) To reduce the elapsed time between arrest and trial in narcotics cases.

(2) To reduce the number of narcotics crimes committed by defendants while awaiting trial.

(3) To increase the enforcement of restrictive conditions of own recognizance release and bail, and to increase the enforcement of court-ordered conditions of probation, for perpetrators of narcotics crimes.

(4) To reduce the violence and other related crimes associated with narcotics crimes.

(5) To increase the number of trials and convictions in narcotics

crime cases in both municipal and superior courts.

(6) To demonstrate the effectiveness of utilizing temporary, targeted personnel to process narcotics crimes court caseloads.

(7) To establish narcotics crimes prevention, enforcement, and prosecution techniques with statewide application.

(8) To increase the awareness, focus, and commitment of time of participating agency personnel in the area of narcotics crimes.

(9) To establish an organizational base that will provide the nucleus for effective criminal justice system response to narcotics crimes.

13984. The Office of Criminal Justice Planning shall submit an annual report to the Legislature regarding the specific achievements of the program. The report shall include a program evaluation, financial statement, and general comments. A statewide analysis and needs assessment shall be part of the report. The annual report shall be due on the first and second anniversary dates of the effective date of the program.

13985. This title shall become inoperative on October 1, 1987, and, as of January 1, 1988, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1988, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. (a) The sum of four million dollars ($4,000,000) is hereby appropriated from the General Fund to the Office of Criminal Justice Planning for the purposes of this act, as follows:

(1) Two million dollars ($2,000,000) to be appropriated on the effective date of this act.

(2) Two million dollars ($2,000,000) to be appropriated one year from the effective date of this act.

(b) The funds appropriated by this section shall be available for expenditure without regard to fiscal years.

(c) The Office of Criminal Justice Planning shall not allocate any portion of those funds unless Alameda County has filed with the office a plan to expend the funds.

(d) The Office of Criminal Justice Planning shall not allocate any portion of the funds appropriated by this section unless Alameda County agrees to provide 25 percent local matching funds.

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

In order to reduce and punish the widespread and voluminous narcotics crimes violations which adversely affect the general health, welfare, and safety of urban communities and to continue effective enforcement and prosecution efforts at the earliest possible time, it is necessary that this act go into immediate effect

CHAPTER 424

An act to amend Section 4085 of the Business and Professions Code, relating to pharmacists.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 4085 of the Business and Professions Code is amended to read:

4085. The board shall register as registered pharmacists, and issue a certificate to all applicants who meet the following requirements:

(a) That the applicant is 18 years of age.

(b) That the applicant has done either of the following:

(1) Graduated from a college of pharmacy or department of pharmacy of a university recognized by the board.

(2) If the applicant was a nonresident of the United States for at least five of the 10 years prior to enrollment in a foreign pharmacy school, and the applicant has graduated from a foreign pharmacy school that the applicant has done either of the following:

(A) The applicant has successfully completed, in the foreign pharmacy school or by a combination of coursework in the foreign pharmacy school and a college of pharmacy or department of pharmacy of a university recognized by the board, the courses established by the board as being equivalent to those required for domestic graduates.

(B) The applicant has received a grade satisfactory to the board on an examination designed to measure the equivalency of foreign pharmacy education with that required of domestic graduates.

(c) That the applicant has completed at least 150 semester units of collegiate study in the United States, or the equivalent thereof in a foreign country. No less than 90 of those semester units shall have been completed while in resident attendance at a school or college of pharmacy.

(d) That the applicant has earned at least a baccalaureate degree in a course of study devoted to the practice of pharmacy.

(e) That the applicant has had 1,500 hours of practical experience in accordance with regulations adopted by the board.

(f) That the applicant has passed a written and practical examination given by the board.

CHAPTER 425

An act to amend Sections 14018, 14018.2, and 14133.1 of, and to add Section 14133.15 to, the Welfare and Institutions Code, relating to medical assistance.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 14018 of the Welfare and Institutions Code is amended to read:

14018. The Medi-Cal card shall be authorization for payment for health care services rendered, during and subsequent to the month of application of a person eligible under Section 14005.1, or a person eligible under Section 14005.4 or 14005.7 who is certified by the department.

The Medi-Cal card shall be signed and dated in the space provided on the card by the beneficiary upon receipt of the card and prior to presentation of the card for any service. This provision shall not apply to:

(a) Persons 17 years of age and under.

(b) Persons in long-term care.

SEC. 2. Section 14018.2 of the Welfare and Institutions Code is amended to read:

14018.2. (a) Reimbursement shall not be denied to any qualified health care provider for care rendered to an eligible Medi-Cal beneficiary for the sole reason that a proof of eligibility label does not accompany the bill.

Proof of eligibility labels may, however, continue to be used as such and shall be made available to an eligible Medi-Cal beneficiary through the local office which has determined the person's eligibility or through the department. The provider may submit machine-reproduced copies of the beneficiary Medi-Cal card for billing purposes as long as the copy is made from the original unaltered Medi-Cal card under circumstances controlled by the provider, for example, on the premises of the provider with copying equipment controlled by the provider.

(b) It shall remain the responsibility of a Medi-Cal beneficiary to provide information and evidence of Medi-Cal eligibility, restrictions on the eligibility, and non-Medi-Cal health coverage, to that person's health care providers, if this information is requested by those providers prior to rendering services to that beneficiary.

(c) It shall be the responsibility of the provider prior to rendering Medi-Cal reimbursable services to persons presenting themselves as Medi-Cal beneficiaries to make a good faith effort to verify the person's identity, if the person is not known to the provider, by matching the name and signature on his or her Medi-Cal card against

the signature on a valid California driver's license, or California identification card issued by the Department of Motor Vehicles, or another type of picture identification card or other credible document of identification. When the provider verifies the beneficiary's identity with a signed Medi-Cal card and one of the documents described above, the state will deem this to be a good faith effort. If the provider does not make a good faith effort of reasonable identification prior to rendering Medi-Cal reimbursable services and renders services to a presenting person who is ineligible for those Medi-Cal services, payment for those services may later be disallowed.

This provision shall not apply to:

(1) Persons 17 years of age and under.

(2) Persons in long-term care.

(3) Persons receiving emergency services.

(d) Notwithstanding subdivision (b) of this section, county welfare departments may provide Medi-Cal eligibility information to other governmental agencies and their designated agents as necessary for proper administration of the Medi-Cal program.

SEC. 3. Section 14133.1 of the Welfare and Institutions Code is amended to read:

14133.1. (a) The director shall determine which of the utilization controls in Section 14133 shall be applied to any specific service or group of services which are subject to utilization controls Each utilization control shall be reasonably related to the purpose for which it is imposed.

(b) Except as provided in Sections 14103.6 and 14133.15, neither prior authorization nor the limitation specified in subdivision (d) of Section 14133 shall be required for the first two services per month which are included among the services listed in subdivision (a) of Section 14132, or for the first two drug prescriptions purchased during any one month, provided that the prescription drugs are included in the Medi-Cal Drug Formulary and the prescription otherwise conforms to applicable formulary requirements.

(c) The director shall, after a determination of cost benefit, eliminate the requirement of prior authorization as a control for treatment, supplies, or equipment which cost less than one hundred dollars ($100), except for prescribed drugs, provided that the requirement of prior authorization for treatment, supplies, or equipment costing less than one hundred dollars ($100) may be reinstituted upon a finding by the department that the elimination of the requirement has resulted in unnecessary utilization, and upon notice to the Joint Legislative Budget Committee 30 days prior to the reinstitution of the requirement of prior authorization.

SEC. 4. Section 14133.15 is added to the Welfare and Institutions Code, to read:

14133.15. (a) The provision of services to beneficiaries eligible for medical assistance benefits may be subject to utilization controls, as provided for in Section 50793 of Title 22 of the California

Administrative Code as the section existed on January 1, 1984, when the director finds that the utilization controls are necessary to carry out the provisions of this chapter.

(b) Where the director determines that a recipient has been abusing drugs or services, the recipient may, in order to prevent his or her abuse, be placed on utilization controls for a maximum period of two years, which may be extended for an additional period upon a determination by the director that the potential for abuse still exists after notice and hearing, as set forth in subdivisions (f) and (g).

(c) If the director determines that a recipient has violated utilization controls placed upon that recipient pursuant to subdivision (b), the director may provide that the recipient shall receive medical assistance benefits referred, ordered, or prescribed through only one primary care provider of services for a maximum period of two years, which may be extended for an additional period upon a determination by the director that the potential for abuse still exists after notice and hearing, as set forth in subdivisions (f) and (g). The director shall afford the beneficiary an opportunity to nominate a primary care provider for department consideration. Circumvention of beneficiary utilization controls includes, but is not limited to, the following acts:

(1) Altering restricted Medi-Cal identification cards.

(2) Obtaining temporary nonrestricted cards.

(3) Establishing an additional nonrestricted eligibility status.

(d) If a recipient is convicted of any misdemeanor or felony involving fraud or abuse either of medical assistance benefits or services, or in connection with any public assistance program, the director may restrict the recipient's eligibility for medical assistance benefits for a maximum period of two years, which may be extended for an additional period upon a determination by the director that the potential for fraud or abuse still exists and upon giving notice to the recipient setting forth the facts upon which the determination is made. The record of conviction or a certified copy thereof, certified by the clerk of the court in which 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 restriction shall not take effect earlier than the date of the director's order. Restriction following a conviction is not subject to the proceedings required in subdivision (g).

(e) Where the director determines that a recipient deliberately abuses or misuses program benefits, the director may provide that the recipient shall receive medical assistance benefits referred, ordered, or prescribed through only one primary care provider of services for a maximum period of two years, which may be extended for an additional period upon a determination by the director that a potential for abuse still exists after notice and hearing as set forth in subdivisions (f) and (g). Deliberate abuse or misuse of program benefits includes, but is not limited to, the following:

(1) Forging prescriptions.
(2) Sale or lending of Medi-Cal identification cards.
(3) Collusion with providers for services or supplies.

(f) A recipient who commits a violation of subdivision (b), (c), or (e) shall be notified of the impending restriction, the reasons for the restriction and be provided an opportunity for a fair hearing.

(g) A recipient who commits a violation of subdivision (b), (c), or (e) is subject to restriction of fee for service Medi-Cal assistance benefits. The proceedings for restriction shall be conducted in accordance with Chapter 7 (commencing with Section 10950) of Part 2, or any rule or regulation promulgated by the director pursuant to this section.

(h) The imposition of restrictions, pursuant to this section, with respect to the eligibility of any individual shall not affect the eligibility of any other person for medical assistance benefits under this program, regardless of the relationship between that individual and the other person.

(i) This section shall not apply in any instance where a bona fide emergency exists which requires immediate treatment.

CHAPTER 426

An act to repeal Sections 5350.3 and 5350.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 5350.3 of the Vehicle Code is repealed.

SEC. 2. Section 5350.5 of the Vehicle Code is repealed.

CHAPTER 427

An act to add Section 74 to the Revenue and Taxation Code, relating to property taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 74 is added to the Revenue and Taxation Code, to read:

74. (a) For purposes of subdivision (a) of Section 2 of Article XIII

A of the Constitution, "newly constructed" does not include the construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement which is constructed or installed on or after November 7, 1984.

(b) Notwithstanding any other provision of this chapter or Chapter 3.5 (commencing with Section 75), neither "newly constructed" nor "new construction" includes the construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement which is constructed or installed on or after November 7, 1984.

(c) For purposes of this section:

(1) "Fire sprinkler system" means any system intended to discharge water for the purpose of suppressing or extinguishing a fire, and includes a fire sprinkler system which derives its water from the domestic water supply of the building or structure of which it is a part.

(2) "Other fire extinguishing system" means any system intended to suppress or to extinguish a fire other than by discharging water upon the fire. An "other fire extinguishing system" includes, but is not limited to, a component or application which, solely or primarily for the purposes of fire suppression or extinguishment, is made part of the heating, ventilating, or air-conditioning system of a building or structure, a wet chemical system, or a dry chemical system.

(3) "Fire detection system" means any system or appliance intended to detect combustion, or the products thereof, and to activate an alarm or signal, whether audio, visual, or other. A fire detection system includes any system which serves additional functions, but this section shall only apply with respect to that portion of a system which is for fire detection purposes.

(4) "Fire-related egress improvement" means any improvement intended to do either of the following:

(A) Provide any new, or improve any existing, means of egress for individuals from a structure, or any portion thereof, in which a fire is in progress, as to which there is an imminent threat that a fire may soon be in progress, or as to which individuals therein might be subjected to health hazards or the risk of physical injury due to a fire elsewhere.

(B) With respect to individuals who for any reason cannot evacuate a structure in which a fire is in progress, provide a means of safeguarding, or increasing the safety of, those individuals until the time that the rescue of those individuals can be effected.

(5) "Existing building" means any building or structure already erected at the time that a fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement is constructed or installed in that building or structure.

(d) Any system or improvement referred to in this section shall be deemed to have been constructed or installed on or after November 7, 1984, if the actual construction or installation thereof is

completed on or after November 7, 1984, regardless of when the actual construction or installation thereof was commenced or any building permit pertaining thereto was issued.

(e) This section shall apply only to fire sprinkler systems, other fire extinguishing systems, fire detection systems, and fire-related egress improvements, as defined in this section, which are constructed or installed in an existing building.

SEC. 2. Section 74 of the Revenue and Taxation Code shall be applicable to the 1985–86 fiscal year and fiscal years thereafter. No escape assessments shall be levied and no refunds shall be made for any fiscal year prior to the 1985–86 fiscal year for any increases or decreases in value made for the 1985–86 fiscal year or fiscal years thereafter as the result of the enactment of Section 74.

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

In order that Proposition 31, adopted by the voters at the November 6, 1984, General Election, may be implemented as soon as possible and made applicable to the assessment of property for the 1985–86 fiscal year, it is necessary that this act go into immediate effect.

CHAPTER 428

An act to amend Sections 4620, 4623, 4624, and 4625 of the Labor Code, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 4620 of the Labor Code is amended to read:

4620. For purposes of this article, a medical-legal expense means any costs and expenses incurred by or on behalf of any party, the administrative director, the board, or a referee for X-rays, laboratory fees, other diagnostic tests, medical reports, medical records, medical testimony, and, as needed, interpreter's fees, for the purpose of proving or disproving a contested claim.

SEC. 2. Section 4623 of the Labor Code is amended to read:

4623. All initial comprehensive industrial medical-legal reports filed in any proceeding shall be accompanied by a copy of the billing for these services on a form prescribed by the administrative director which shall indicate the physician's specialty, if any, and show separately the charges for all of the following:

(a) A review of medical records.

(b) Compiling the patient's medical history and performing a medical examination of the patient.

(c) Report preparation, including necessary research.

(d) The total charge.

The information contained on these forms shall be utilized by the administrative director to promulgate the range of medical-legal fees as required by Section 4624.

SEC. 3. Section 4624 of the Labor Code is amended to read:

4624. (a) Annually, commencing on November 1, 1986, the administrative director shall publish the range of fees for initial comprehensive industrial medical-legal reports charged by independent medical examiners, agreed medical examiners, and physicians examining for either the applicant or defendant for the 12 months ending the previous June 30.

(b) The range of charges shall be shown by five specialty categories: orthopedics, internal medicine and cardiology, neurology, psychiatry, and all others. The 80th percentile of these charges, adjusted by multiplying the 80th percentile by one plus one-half of the percentage change in the Physician Fee Index published by the California Medical Association for the 12 months ending the previous June 30, shall be shown in all instances.

(c) Charges of all physicians providing initial comprehensive industrial medical-legal reports shall be rebuttably presumed reasonable if the charges do not exceed the 80th percentile of fees in the appropriate specialty as established in subdivision (b). Charges exceeding the 80th percentile for the involved specialty may be found reasonable if accompanied by supporting information provided by the physician.

SEC. 4. Section 4625 of the Labor Code is amended to read:

4625. All charges for initial comprehensive industrial medical-legal reports which are rebuttably presumed reasonable pursuant to subdivision (c) of Section 4624 shall be paid promptly pursuant to Section 4622.

SEC. 4.5. Notwithstanding any other provision of law, the unencumbered balance on the effective date of this act, not to exceed fifty-nine thousand nine hundred twenty-nine dollars ($59,929) of the appropriation from the State, Urban, and Coastal Park Fund to the Department of Parks and Recreation for a grant to the City of Fremont for Williams Historical Park provided in Item 590 (1) of the Budget Act of 1980 (Chapter 510 of the Statutes of 1980), is hereby reappropriated for a grant to the City of Fremont for the Olive Hyde Community Center Courtyard Project.

SEC. 5. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims

Fund.

SEC. 6. This act is an urgency statute necessary for the immediate perservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. With respect to Sections 1 to 4, inclusive, of this act, facts constituting the necessity are:

Section 4620 was added to the Labor Code by Chapter 596 of the Statutes of 1984, and was based upon former Section 4601.5 of the Labor Code. Through an oversight, the reference to "medical records" was inadvertently deleted from the new section. In order to correct this oversight as soon as possible and preserve the intent of the Legislature, it is necessary for this act to become effective immediately. With respect to Section 4.5 of this act, it will not be possible for the project at Williams Historical Park to be underway by June 30, 1985. In order to use these funds for the Olive Hyde Community Center Courtyard, it is necessary that this bill take effect immediately

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CHAPTER 429

An act to add Sections 19995 35 and 20140.1 to the Government Code, relating to state employees, and making an appropriation therefor.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 19995.35 is added to the Government Code immediately following Section 19995.3, to read:

19995.35. Each state department shall report to the Department of Personnel Administration by no later than July 1, 1986, on its level of compliance with the Injured State Worker Assistance Program guidelines issued by the Department of Personnel Administration. The reports shall detail how the program has been implemented, whether or not and in what fashion return-to-work coordinators have fulfilled their responsibilities, whether or not Return to Work Councils have been formed, how they are composed, how often they have met, and whether or not the return-to-work coordinator has been informed on a timely basis of all vacant positions in the department. Each department shall report: the number of employees disabled in the reporting period; the kind of disablement (job or nonjob); the number who were provided information and counseling in person by a vocational rehabilitation counselor or other appropriate specialist; the number of disabled employees provided with reasonable accommodations or special equipment or both; the number retrained for a new position and the number successfully

returned to work at the same or some other position, either within the department or in some other state agency; the number who were eligible for and accepted disability retirement within the reporting period; the number eligible for temporary disability benefits (job or nonjob) who left employment and engaged in retraining and rehabilitation, if that information can be obtained.

Each department shall provide, if possible, and by mail if necessary, each employee engaged in a rehabilitation program or a retraining program, within the last 12 months with a copy of this section and the opportunity to comment on the level of effective retraining and rehabilitation provided by the department. Representative samples of disabled employee comment shall be included in the report.

The Department of Personnel Administration shall coordinate departmental responses to this section, to assess the relative success of the program on a department-by-department basis, and make recommendations to the Legislature by December 2, 1986, on how the state can more successfully return to productive work in state service individual state workers who suffer job and nonjob-related disabilities, avoiding the General Fund costs of disability retirement, and the human costs of wasted lives. The Department of Personnel Administration shall also recommend whether legislation giving a revised Injured State Worker Assistance Program statutory status is advisable.

SEC. 2. Section 20140.1 is added to the Government Code, to read.

20140.1. In addition to any other reports that it may be required to make by law, the board shall annually file, commencing January 1, 1987, a separate report to the Legislature and each appointing power and other appointing authority on the number of new state retirees, by individual state employer, that are processed in the immediately preceding fiscal year to the service, disability, and industrial disability retirement rolls and on the incurred cost of the system for state members for the immediately preceding three fiscal years, provided, that only experience in a fiscal year which commences on or after the effective date of this section shall be included in the report.

As used in this section, "incurred cost" means all paid and expected future cost of an industrial disability retirement. There shall be deducted from the gross incurred cost the amount of service time accrued by an employee.

SEC. 3. There is hereby appropriated from the Public Employees' Retirement Fund to the Public Employees' Retirement System the sum of forty-three thousand dollars ($43,000) for expenditure for the implementation of Section 2 of this act.

CHAPTER 430

An act to amend Sections 4007 and 4024.2 of the Penal Code, relating to prisoners.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 4007 of the Penal Code is amended to read:

4007. When there is no jail in the county, or when the jail becomes unfit or unsafe for the confinement of prisoners, the judge of the superior court may, by a written order filed with the county clerk, designate the jail of a contiguous county for the confinement of the prisoners of his county, or of any of them, and may at any time modify or vacate such order.

When there are any reasonable grounds to believe that a prisoner may be forcibly removed from a county jail the sheriff may remove such prisoner to any California state prison for safekeeping and it is hereby made the duty of the warden of such prison to accept and detain such prisoner in his custody until his removal is ordered by the superior court of the county from which he was delivered. Immediately upon receiving such prisoner the warden shall advise the Director of Corrections of that fact in writing.

When a county prisoner requires medical treatment necessitating hospitalization which cannot be provided at the county jail or county hospital because of lack of adequate detention facilities, and when, because of his past or present behavior, such prisoner presents a serious custodial problem, with the consent of the Director of Corrections, the judge of the superior court may, upon request of the county sheriff, by a written order filed with the county clerk, designate, for the confinement of such prisoner, the nearest prison or correctional facility of this state which would be able to provide the necessary medical treatment and secure confinement of such prisoner, and may at any time modify or vacate such order. The rate of compensation for such medical treatment and confinement within a California state prison or correctional facility shall be established by the Department of Corrections of this state and shall be a charge against the county making the request for such treatment and confinement.

When there are any reasonable grounds to believe that there is a prisoner in a county jail who is likely to be a threat to other persons in the facility or is likely to cause substantial damage to the facility, with the consent of the Director of Corrections, the judge of the superior court may, upon the request of the county sheriff, by written order filed with the county clerk, designate for the confinement of that person the nearest state prison or correctional facility of the state which would, subject to space available, be able

to secure confinement of that prisoner. The court shall immediately calendar the matter for a hearing to determine if the order shall continue or be rescinded. The hearing shall be held within 48 hours of the initial order or the next judicial day, whichever occurs later. At the hearing, the prisoner shall be entitled to be present and to be represented by counsel. The court may at any time modify or vacate that order. The rate of compensation for that confinement within a California state prison or correctional facility shall be established by the Department of Corrections and shall be a charge against the county making the request for the confinement.

SEC. 2. Section 4024.2 of the Penal Code is amended to read:

4024.2. (a) Notwithstanding any other provision of law, the board of supervisors of any county may authorize the sheriff or other official in charge of county correctional facilities to offer a voluntary program under which any person committed to such facility may perform a minimum of 8 and a maximum of 10 hours of labor on the public works or ways in lieu of one day of confinement under the direction of a responsible person appointed by the sheriff or other official in charge. The hours of labor to be performed pursuant to this section shall be uniform for all persons committed to such facilities in a county and may be determined by the sheriff or other official in charge of county correctional facilities, within the minimum and maximum herein set forth, in accordance with the normal working hours of county employees assigned to supervise the labor of such persons.

As used in this section "labor on the public works and ways" means manual labor to improve or maintain public facilities, including but not limited to, streets, parks, and schools.

(b) The board of supervisors may prescribe reasonable rules and regulations under which such labor is to be performed and may provide that such persons wear clothing of a distinctive character while performing such work. As a condition of participating in a work release program, a person shall give his or her promise to appear for work by signing a notice to appear before the sheriff at a time and place specified in the notice and shall sign an agreement that the sheriff may immediately retake such person into custody to serve the balance of his or her sentence if such person fails to appear for work at the time and place agreed to, does not perform the work assigned, or for any other reason is no longer a fit subject for release under this section. A copy of the notice shall be delivered to the person and a copy shall be retained by the sheriff. Any person who willfully violates his or her written promise to appear at the time and place specified in the notice is guilty of a misdemeanor.

Whenever a peace officer has reasonable cause to believe the person has failed to appear at the time and place specified in the notice or fails to appear or work at the time and place agreed to or has failed to perform the work assigned, the peace officer may, without a warrant, retake the person into custody, or the court may issue an arrest warrant for the retaking of the person into custody,

to complete the remainder of the original sentence. A peace officer may not retake a person into custody under this subdivision, without a warrant for arrest, unless the officer has a written order to do so, signed by the sheriff or other person in charge of the program, which describes with particularity the person to be retaken.

(c) Nothing in this section shall be construed to require the sheriff or other such official to assign labor to a person pursuant to this section if it appears from the record that such person has refused to satisfactorily perform labor as assigned or has not satisfactorily complied with the reasonable rules and regulations governing such assignment or any other order of the court.

A person shall be eligible for work release under this section only if the sheriff or other official in charge concludes that such person is a fit subject therefor.

(d) If the court sentences the defendant to a period of confinement of 15 days or more, it may restrict or deny his or her eligibility for the work release program.

(e) The board of supervisors may prescribe a program administrative fee, not to exceed the pro rata cost of administration, to be paid by each such person according to his or her ability to pay.

(f) This section shall remain in effect until January 1, 1990, and on that date is repealed.

CHAPTER 431

An act to amend Sections 4832 and 4833 of the Business and Professions Code, relating to animal health technicians.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 4832 of the Business and Professions Code is amended to read:

4832. (a) There is hereby created within the jurisdiction of the board, an Animal Health Technician Examining Committee, hereinafter referred to as the examining committee.

(b) The examining committee shall consist of eight members. The examining committee shall consist of three veterinarians licensed to practice veterinary medicine in the State of California, one of whom shall be involved in educating animal health technicians, two public members and three members who shall be registered as animal health technicians in the State of California, who shall serve at the pleasure of the appointing power. Appointments may be made from lists, if any, submitted by appropriate professional associations and societies.

The Governor shall appoint the six licensed and registered

members qualified as provided in this subdivision. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

The Governor shall appoint the additional animal health technician member, provided for by the statute enacted during the 1984 portion of the 1984–85 Regular Session, upon the expiration of the term of the public member appointed by the Governor.

(c) All members of the examining committee shall be citizens of the United States and residents of the State of California. All doctors of veterinary medicine who are appointed members of the examining committee, shall have been licensed to practice veterinary medicine, at least five years preceding their appointments.

(d) The members of the examining committee shall serve for a term of four years, except that the original examining committee appointments may be staggered to achieve rotational terms. No person may serve as a member of the committee for more than two consecutive terms.

(e) The first animal health technician appointed to the committee shall upon appointment become a registered animal health technician, provided such person meets the eligibility requirements to take the written and practical examination as established in Section 4841.5.

SEC. 2. Section 4833 of the Business and Professions Code is amended to read:

4833. (a) The examining committee shall assist the board in the examination of applicants for animal health technician registration. Such examination shall be held at least once a year at the times and places designated by the board.

(b) As directed by the board, the examining committee may investigate and evaluate each applicant applying for registration as an animal health technician and may recommend to the board for final determination the admission of the applicant to the examination and eligibility for registration.

(c) The examining committee shall make recommendations to the board regarding the establishment and operation of the continuing education requirements authorized by Section 4838 of this article.

(d) The examining committee shall assist the board in the inspection and approval of all schools or institutions offering a curriculum for training animal health technicians.

CHAPTER 432

An act to amend Section 1680 of the Business and Professions Code, relating to dentistry.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 1680 of the Business and Professions Code is amended to read:

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, the violation of any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.

(c) The aiding or abetting of any unlicensed person to practice dentistry.

(d) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(e) The committing of any act or acts of gross immorality substantially related to the practice of dentistry.

(f) The use of any false, assumed or fictitious name, either as an individual, firm, corporation or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1701.5.

(g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions or other services or articles supplied to patients.

(h) The making use by the licentiate or any agent of the licentiate of any advertising statements of a character tending to deceive or mislead the public.

(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising of any free dental work, or free examination.

(*l*) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as

defined in Article 8 (commencing with Section 4211) of Chapter 9, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than six hundred dollars ($600) or by imprisonment for a term of not less than 60 days or more than 180 days or by both such fine and imprisonment.

(q) The use of threats or harassment against any patient or licentiate for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.

(r) Suspension or revocation of a license issued by another state or territory on grounds which would be the basis of discipline in this state.

(s) The alteration of a patient's record with intent to deceive

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession

(u) The abandonment of the patient by the licentiate, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another dentist and provided the health of the patient is not jeopardized.

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licentiate.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct which would have warranted the denial of the license.

(y) The aiding or abetting of a licensed dentist or dental auxiliary to practice dentistry in a negligent or incompetent manner.

(z) The failure to report to the board in writing within seven days either: (1) the death of his or her patient during the performance of any dental procedure; or, (2) the discovery of the death of a patient whose death is causally related to a dental procedure performed by him or her.

(aa) Participating in or operating any group advertising and referral services which is in violation of Section 650.2

(bb) The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide. The board shall

by regulation define what constitutes a fail-safe machine.

CHAPTER 433

An act relating to Padre Dam, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985]

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

SECTION 1. The Legislature hereby finds and declares that Padre Dam was built during the years 1813 through 1816 by Native American Indians who were assisted and directed by the Franciscan Missionaries from Mission San Diego de Acala. The Legislature further finds that Padre Dam was California's first large-scale irrigation project and as such has been evaluated as having significant historic importance, as further evidenced by its inclusion in the National Register of Historic Places.

SEC. 2. Notwithstanding subdivision (d) of Section 26401 of the Public Resources Code, the sum of two hundred thousand dollars ($200,000) is hereby appropriated from the Special Account for Capital Outlay in the General Fund to the Department of Parks and Recreation for a grant to the City of San Diego for the purpose of restoration of the Padre Dam in San Diego County. The grant shall be used for the initial phase of restoration, including structural repairs, erosion control work, the removal and replanting of vegetation, and the removal of silt and other materials from behind the dam.

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

Padre Dam, on the National Register of Historic Sites, is in a severe state of disrepair due to crumbling mortar. If the dam can be repaired before the winter rains hit this year, chances are good that it can be saved. It is already partially destroyed. If the money can be made available as soon as the bill is chaptered, it may be possible to preserve at least most of this structure. In order therefore to preserve this important dam, it is necessary that this act take effect immediately.

CHAPTER 434

An act to amend Section 6916 of the Public Resources Code, relating to geothermal resources.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 30, 1985.]

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

SECTION 1. Section 6916 of the Public Resources Code is amended to read:

6916. (a) The commission may issue leases for direct heat application of geothermal resources for nonelectrical purposes for a royalty of less than 10 percent of gross revenue if it determines that such a royalty would be in the best interests of the state.

(b) The commission may also waive, suspend, or reduce the rental or minimum royalty for the lands included in any permit or lease, or any portion thereof, and waive, suspend, alter, or amend the operating requirements contained in the lease or regulations adoped pursuant to this section affecting operations of the lease or permit, in the interests of conservation, and to encourage the greatest ultimate recovery of geothermal resources if the commission determines that the action is necessary or beneficial to promote development or finds that the permit or lease cannot be successfully operated under the permit or lease terms or under the regulations.

(c) The commission shall file a report with the Legislature annually on all waivers, suspensions, reductions, alterations, or amendments made by the commission pursuant to this section, together with the reasons therefor.

CHAPTER 435

An act relating to Hydrilla eradication, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. It is the purpose of this act to enable the Department of Food and Agriculture to assist the Sonoma County Water Agency and supplement expenditures by that agency in eradicating an infestation of the plant Hydrilla.

SEC. 2. The sum of six hundred sixty-seven thousand dollars ($667,000) is hereby appropriated from the General Fund to the

Department of Food and Agriculture for allocation by the Director of Food and Agriculture for purposes of Section 1 of this act pursuant to the following schedule:

Schedule:

(a) Equipment purchases to aid in eradication, for expenditure for the 1984–85 fiscal year	$ 20,000
(b) Eradication activities, for expenditure for the 1985–86 fiscal year	$647,000

SEC. 3. The Legislature finds and declares that the provisions of this act are needed to meet special circumstances in the Sonoma County Water Agency and a general law cannot be made applicable within the meaning of Article IV of the Constitution.

SEC. 4. The Department of Food and Agriculture shall report to the Legislature by December 1, 1985, regarding (1) standards and guidelines it will use to determine when and under what circumstances it will undertake future Hydrilla eradication projects and (2) funding sources other than the General Fund which can be used for those efforts.

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:

Hydrilla is a serious pest which threatens the agricultural industry and the destruction of the waterways of the state. In order to prevent this destruction, it is necessary that this act take effect immediately.

CHAPTER 436

An act to amend Sections 8609, 8610, 8664.8, and 8696 of the Fish and Game Code, relating to fish nets, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985]

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

SECTION 1. Section 8609 of the Fish and Game Code is amended to read:

8609. (a) The Legislature finds and declares that:

(1) The central California nearshore gill and trammel net fisheries for California halibut (Paralichthys californicus) and white croaker (Genyonemus lineatus) and the use of gill nets in these fisheries are expanding at a rapid rate.

(2) The incidental take of certain species of seabirds and marine

mammals in set gill and trammel nets could be increasing to a level which may be adversely impacting the viability of such populations of nontarget species.

(b) The department shall conduct a study of all of the following:

(1) The effects on local populations of seabirds and marine mammals of the use of gill and trammel nets in the central California halibut, rockfish, and white croaker fishery.

(2) The effects of monofilament gill nets in comparison with nets constructed from other materials and make recommendations with respect to the continued use of monofilament gill nets or modifications of those nets.

(3) The extent, if any, of the incidental take of salmon or striped bass in gill and trammel nets in Districts 10 and 17.

(4) The feasibility of a monitoring program to allow the department to provide a prompt response to the migration of seabird and marine mammal populations by closing and opening areas to gill and trammel net fishing to allow the maximum protection possible to large seabird and marine mammal populations and to allow the greatest area possible for the use of gill and trammel nets, and the department recommendations as to personnel and budget requirements of such a monitoring program.

(5) The total number of gill and trammel net fishermen operating in Districts 10 and 17 involved in the take of halibut, rockfish, and croaker, together with its recommendations for the optimum number of permits that should be allowed and whether, and in what form, the number of permits should be limited, including provisions for new entrants.

(c) The department shall report its findings to the Legislature on or before January 1, 1987, except for the report on permits which shall be made on or before June 1, 1986.

(d) The provisions of this section are intended as interim measures until the report by the department to the Legislature is made and are specific to the set gill and trammel net fisheries of Districts 10 and 17 only.

SEC. 2. Section 8610 of the Fish and Game Code is amended to read:

8610. (a) Notwithstanding Sections 8693, 8696, and 8724, no person shall use set gill or trammel nets in District 10 or 17 or that portion of District 18 north of a line extending due west magnetic from Pfeiffer Point in Monterey County, except for those individuals issued a nontransferable special permit.

(b) An individual qualifying for and issued a special permit pursuant to this section shall be designated on the permit as the principal permittee.

(c) At the time the principal permittee applies for and is issued the special permit, he or she may designate on the special permit the names of up to three co-permittees, each of whom shall satisfy all of the following conditions:

(1) Possesses a valid general gill and trammel net permit.

(2) Demonstrates to the department that a formal partnership existed, prior to 90 days following the effective date of the act amending this section enacted in the 1985 portion of the 1985–86 Regular Session of the Legislature, between the principal permittee and the co-permittee or co-permittees. Each individual in the partnership shall hold at least a 10 percent interest in the partnership by investment in any combination of the following:

(A) A currently registered commercial fishing vessel.

(B) The net reel and hydraulics used to recover gill or trammel nets aboard that vessel.

(C) The gill or trammel nets used aboard that vessel.

(D) The engine used to propel that vessel.

(E) The labor to prepare the vessel for fishing gill and trammel nets.

Verification of the partnership shall be by notarized agreement. Verification shall be supported by signed and dated receipts or purchase vouchers for equipment, and vessel registration certificates issued by the state or federal government.

(d) A principal permittee shall not be designated as a co-permittee on any special permit. A co-permittee shall be so designated on only one special permit at any one time.

(e) A co-permittee may become the principal permittee only if he or she meets all of the folowing conditions:

(1) The principal permittee dies or notifies the department that he or she otherwise relinquishes his or her interest in the special permit.

(2) The co-permittee is designated as an owner or operator of a vessel based on vessel registration information furnished to the department pursuant to subdivision (d) of Section 7884.

(3) The person possesses a valid general gill and trammel net permit.

(4) The co-permittee was designated as a co-permittee prior to April 1, 1986.

(5) The annual landing or notice of intent requirements of paragraph (3) of subdivision (h) have been met for the permit.

(f) A co-permittee, when in possession of a valid special permit upon which he or she is so designated, may conduct fishing operations without the principal permittee or other co-permittees present.

(g) Until March 31, 1986, a special permit shall be issued by the department, upon application, to any person who, prior to the effective date of the act amending this section enacted in the 1985 portion of the 1985–86 Regular Session of the Legislature, possessed a valid special permit; or to any person who meets the qualifications of paragraphs (1) and (2) and either paragraph (3) or (4), as follows:

(1) The person is designated as an owner or operator of a vessel on registration information furnished to the department pursuant to subdivision (d) of Section 7884.

(2) The person possesses a valid general gill and trammel net

permit.

(3) The person has made one or more deliveries of halibut, flounder, croaker, or rockfish, or any combination thereof, which were taken with set gill or trammel nets in District 10 or 17, or that portion of District 18 north of Pfeiffer Point in Monterey County, or any combination thereof, including Department of Fish and Game catch block numbers 539 and 540, during the period between January 1, 1982, and September 13, 1984. Proof of the taking under this paragraph may be made by receipts issued pursuant to Section 8014 during that time period, or by logbook entries required pursuant to Section 8681 of this code and Section 174 of Title 14 of the California Administrative Code.

(4) Both of the following: (A) The person made a total investment of not less than two thousand dollars ($2,000), with at least one thousand dollars ($1,000) of that amount having been for a net of not less than 2¾ inch mesh, a reel used for recovery of such a net, or both the net and the reel, or a boat, net, and reel or combination of such equipment. If the investment for the above equipment is less than $2,000, the remainder of the investment shall have been for hydraulic equipment to operate the net reel, shipyard fees, including cost of materials and installation of marine plywood, fiberglass, marine hardware, anchors, chain, and marine electronic navigation and radio equipment, which were purchased after April 1, 1983, and before September 13, 1984, for use in the halibut, rockfish, or croaker fisheries in District 10 or 17 or that portion of District 18 north of Pfeiffer Point in Monterey County. The investment in a net reel shall be substantiated by receipts or invoices for that equipment and by matching cancelled bank checks or drafts, or through documents produced through direct contact with manufacturers or suppliers of materials and labor.

(B) The person made a landing of fish other than shark, swordfish, sole, opah, albacore, Pacific bonito, sablefish, herring, salmon, Pacific mackeral, shrimp, crab, or squid in 1983 or before September 13, 1984, which were taken in District 10 or 17 or that portion of District 18 north of Pfeiffer Point in Monterey County.

(h) After March 31, 1986, and except as provided in subdivision (i), the special permit shall be issued by the department, upon application, to any person who meets all of the following requirements:

(1) Possesses a valid general gill and trammel net permit.

(2) Was issued a valid special permit during the previous permit year (April 1 through March 31).

(3) Either of the following: (A) Landed at least 500 pounds of halibut, or at least 1,000 pounds of croaker, or at least 2,000 pounds of rockfish, or at least 500 pounds of shark, or at least 2,000 pounds of any combination of the above species, which were taken under authority of the permit during the previous permit year. Only landings which can be verified by landing receipts submitted to the department pursuant to Section 8011 shall be used to determine

qualification for the permit.

(B) Declared, before the permit was issued and prior to June 1 of the previous permit year, that he or she did not intend to use the special permit in that permit year, but declared his or her intent to fish and landed at least 2,500 pounds, or $2,500 worth of fish ex-vessel value in that permit year. These landings shall be verified at the time of application for the special permit in the current permit year. Verification of landings or value for purposes of this section, made at ports other than in California, shall be by fish receipts acceptable to the agency having jurisdiction over fisheries in the state of landing. Only one declaration may be made pursuant to this subparagraph in any five consecutive years.

(i) After March 31, 1986, no special permits shall be issued under this subdivision by the department to a person who does not qualify for a special permit under subdivision (h) unless the total number of special permits issued under subdivision (h) is less than 135. The number of special permits issued under this subdivision shall not exceed the difference between 135 and the number of special permits issued under subdivision (h). The issuance of special permits under this subdivision, if the total number of special permits issued under subdivision (h) is less than 135, shall be based upon a random drawing of names of interested individuals who possessed a valid general gill and trammel net permit during two of the past three years.

(j) A special permit issued pursuant to this section is valid from April 1 of the year of issue to March 31 of the next succeeding year. The department may establish a fee for the special permit, which does not exceed one hundred fifty dollars ($150).

(k) The special permit issued pursuant to this section may be revoked or suspended by the department upon a conviction of a violation of any provision of Article 1 (commencing with Section 8601) or Article 5 (commencing with Section 8680) of Chapter 3, or violation of any condition of the special permit by the principal permittee, a co-permittee, permittee's agent, servant, employee, or person acting under the direction or control of the principal permittee or a co-permittee.

(*l*) Any person denied a special permit pursuant to this section may appeal to the director where evidence can be presented that illness or loss of vessel resulted in the person not meeting the qualifications for the special permit.

(m) It is the intent of the Legislature that paragraph (4) of subdivision (g), authorizing the department to directly verify investment expenditures through contact with manufacturers or suppliers of materials and labor, be limited to those instances where it can be reasonably determined that the person making the investment was unable to converse in the English language.

(n) This section shall become inoperative on April 1, 1989, and, as of January 1, 1990, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1990, deletes or extends the

date on which it becomes inoperative and is repealed.

SEC. 3. Section 8664.8 of the Fish and Game Code is amended to read:

8664.8. (a) Notwithstanding Sections 8687, 8696, and 8724, gill or trammel nets shall not be used, except as permitted in Section 8664.9, from May 1 through September 30 in the following ocean waters:

(1) In waters which are 25 fathoms or less in depth at mean lower low water along the south facing shoreline of the Point Reyes headlands between a line extending 270° magnetic from the west point and 105° magnetic from the east point of the Point Reyes headlands in Marin County.

(2) In waters 10 fathoms or less in depth at mean lower low water between a line extending 105° magnetic from the eastern point of the Point Reyes headlands in Marin County and a line extending 210° magnetic from a point on the mainland shore 3¾ of a mile northwest of the north projection of Double Point in Marin County, excluding the waters of Drakes Estero and Estero de Limantour.

(3) In waters 15 fathoms or less in depth at mean lower low water between a line extending 210° magnetic from a point on the mainland shore 3¾ of a mile northwest of the north projection of Double Point in Marin County and a line extending 210° magnetic from a point on the mainland shore one mile south of the south projection of Double Point in Marin County.

(4) In waters 20 fathoms or less in depth at mean lower low water between a line extending 250° magnetic from Mussel Rocks in San Mateo County and a line extending 270° magnetic from Point Montara in San Mateo County.

(5) In waters 10 fathoms or less in depth at mean lower low water between a line extending 270° magnetic from Point Montara in San Mateo County and a line extending 270° magnetic from Miramontes Point in San Mateo County.

(6) In waters 10 fathoms or less in depth at mean lower low water between a line extending 270° magnetic from the mouth of Tunitas Creek in San Mateo County and a line extending 270° magnetic from Pescadero Point in San Mateo County.

(b) Notwithstanding Sections 8687, 8696, and 8724, gill and trammel nets with meshes less than 8 inches in length shall not be used, except as permitted in Section 8664.9, in the following portions of District 10:

(1) In waters inside a line extending 160° magnetic from Duxbury Point in Marin County to the Duxbury whistle buoy, then southeasterly 111° magnetic to the Point Bonita bell buoy, located approximately 1.5 miles southwesterly from Point Bonita in Marin County, then easterly 59° magnetic to Point Bonita.

(2) In waters within one mile of the mainland shore between a line, which extends 315° magnetic from the north shore of Point Lobos in San Francisco County, to Mile Rock Light in San Francisco County and then 225° magnetic from Mile Rock Light, and a line extending 250° magnetic from Mussel Rocks in San Mateo County.

(c) Notwithstanding Sections 8687, 8696, and 8724, gill and trammel nets with meshes 8 inches or greater in length shall not be used from May 1 through September 30 in waters inside a line extending 160° magnetic from Duxbury Point in Marin County to the Duxbury whistle buoy, then southeasterly 111° magnetic to a point on a line extending 250° magnetic from Tennessee Point in Marin County, then easterly 70° magnetic to Tennessee Point, but excluding that portion of Bolinas Bay north of a line extending from Rocky Point in Marin County to Duxbury Point in Marin County.

(d) Notwithstanding Sections 8687, 8696, and 8724, gill or trammel nets with meshes 8 inches or less shall not be used in waters 40 fathoms or less in depth at mean lower low water or within 2 nautical miles, whichever is nearer to the mean lower low water line, and nets with meshes greater than 8 inches shall not be used in waters 25 fathoms or less in depth at mean lower low water around the North, Middle, and South Farallon Islands, and Noonday Rock buoy in San Francisco County.

(e) Notwithstanding Sections 8687, 8696, and 8724, gill or trammel nets with meshes less than 8 inches in length shall not be used from May 1 through August 15 within three nautical miles of the North, Middle, and South Farallon Islands, and within three nautical miles of the Noonday Rock buoy in San Francisco County.

(f) In District 10 between Point Reyes in Marin County and Pigeon Point in San Mateo County, in waters 40 fathoms or less in depth at mean lower low water, no permittee operating under authority of a gill or trammel net permit issued under regulations adopted pursuant to Section 8682 shall fish, in combination in any day, more than 600 fathoms of set gill or trammel nets with meshes ranging in size from 8 inches to 10 inches in length, and 1,000 fathoms of set gill or trammel nets with meshes less than 8 inches in length, except that, in that portion of Bolinas Bay north of a line extending from Rocky Point to Duxbury Reef, no gill or trammel net permittee may use more than 200 fathoms of gill or trammel net with meshes 8 inches or greater in length per boat per day.

(g) Gill and trammel nets used to take fish in District 10 shall be marked at each end with a buoy displaying above its waterline in Arabic numerals at least 2 inches high, the certificate of vessel registration number issued by the department under Section 7881 for the vessel from which the net is being used. Nets shall be marked at both ends and at least every 250 fathoms between the ends with flags of the same color and at least 144 square inches in size, acceptable to the department.

(h) This section shall remain in effect only until January 1, 1988, and as of that date is repealed unless a later enacted statute which is enacted before January 1, 1988, deletes or extends that date.

SEC. 4. Section 8696 of the Fish and Game Code is amended to read:

8696. In District 10, set gill nets may be used south of a line extending 245° magnetic from the western point of the Point Reyes

headlands in Marin County except for the taking of salmon.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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. 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 protect the fishery in Districts 10, 17, and 18 by limiting the use of gill and trammel nets until the studies on that use are complete, which limitation expired April 1, 1985, it is necessary that this act take effect immediately.

CHAPTER 437

An act to add Section 818.5 to the Government Code, relating to public liability.

[Became law without Governor's signature Filed with Secretary of State July 31, 1985]

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

SECTION 1. It is the intent of the Legislature in enacting this act that the provisions of Section 818.5 of the Government Code not be construed as establishing any precedent for creating state liability in any other situation or circumstance.

SEC. 2. Section 818.5 is added to the Government Code, to read:

818.5. The Department of Motor Vehicles is liable for any injury to a lienholder or good faith purchaser of a vehicle proximately caused by the department's negligent omission of the lienholder's name from an ownership certificate issued by the department. The liability of the department under this section shall not exceed the actual cash value of the vehicle.

CHAPTER 438

An act relating to international trade, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 31, 1985.]

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

SECTION 1. The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the Special Account for Capital Outlay within the General Fund to the Business, Transportation and Housing Agency, without regard to fiscal years, to permit the State of California to participate in the 1986 World Exposition in Vancouver, British Columbia, Canada. The funds shall be used for the design, construction, and operation of a California Pavilion at the exposition. The pavilion shall be used primarily to showcase California's aerospace and communications industries. The Secretary of the Business, Transportation and Housing Agency is authorized to expend two hundred thousand dollars ($200,000) of this appropriation to contract for the first phases of design of a California exhibit. No additional expenditures from this appropriation are authorized until such time as the Secretary of the Business, Transportation and Housing Agency receives written commitments of private industry in-kind support, as determined by the secretary, or direct-dollar support for California's participation in a sum equal to at least one million five hundred thousand dollars ($1,500,000).

At such time that the in-kind support or the matching funds are committed, the Secretary of the Business, Transportation and Housing Agency is authorized to expend the remainder of this appropriation for the purpose of completing the design, construction, and operation of the California exhibit.

If the Secretary of the Business, Transportation and Housing Agency decides, for any reason, that the State of California will not participate in the 1986 World Exposition, or if the secretary is unable to secure written commitments of in-kind support or direct-dollar private sector matching funds, the remainder of the one million five hundred thousand dollar ($1,500,000) appropriation made pursuant to this section shall revert to the Special Account for Capital Outlay within the General Fund.

SEC. 2. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to the California State World Trade Commission Fund to permit the State of California to participate in the 1985 Asia and Pacific International Trade Fair in Beijing, China. The funds shall be used to secure space within the United States Pavilion and to design, construct, and operate a California exhibit which will showcase California's advanced technologies.

If, for any reason, the California State World Trade Commission decides that the State of California will not participate in the 1985 Asia and Pacific International Trade Fair, moneys appropriated by this section shall revert to the General Fund.

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

In order that the State of California may begin planning for its participation in the 1985 Asia and Pacific International Trade Fair in Beijing, China and the 1986 World Exposition in Vancouver, British Columbia, Canada, it is necessary that this act take effect immediately.

CHAPTER 439

An act to add Section 5412.6 to the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 31, 1985.]

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

SECTION 1. Section 5412.6 is added to the Business and Professions Code, to read:

5412.6. The requirement by a governmental entity that a lawfully erected display be removed as a condition or prerequisite for the issuance or continued effectiveness of a permit, license, or other approval for any use, structure, development, or activity other than a display constitutes a compelled removal requiring compensation under Section 5412, unless the permit, license, or approval is requested for the construction of a building or structure which cannot be built without physically removing the display.

CHAPTER 440

An act to amend Sections 319 and 361 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor July 30, 1985 Filed with Secretary of State July 31, 1985]

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

SECTION 1. Section 319 of the Welfare and Institutions Code is amended to read:

319. At the initial petition hearing the court shall examine the minor, the minor's parents, guardians, or other persons having relevant knowledge and hear the relevant evidence as the minor, the minor's parents or guardians, or their counsel desires to present.

The probation officer shall report to the court on the reasons why the minor has been removed from the parent's custody, the need, if any, for continued detention, and on the available services and the referral methods to be used which would facilitate the return of the minor to the custody of the minor's parents or guardians. The court shall order the release of the minor from custody unless it finds any of the following:

(a) There is a substantial danger to the physical health of the minor or the minor is suffering severe emotional damage, and there are no reasonable means by which the minor's physical or emotional health may be protected without removing the minor from the parents' or guardians' physical custody.

(b) The minor has violated an order of the juvenile court or has escaped from the commitment of the juvenile court.

(c) The minor is a threat to the person or property of another or his or her parent or guardian or responsible relative is likely to flee the jurisdiction of the court.

(d) The minor indicates an unwillingness to return home, if the minor has been sexually molested by a person residing in the home.

(e) Continued detention of the minor is a matter of immediate and urgent necessity for the protection of the minor.

Whenever a court orders a minor detained, the court shall state the facts on which the decision is based. The court shall also make a determination in the order as to whether reasonable services have been provided to aid the parents or guardians in order to prevent the need for removal of the child. Where the first contact with the family has occurred during an emergency situation in which the child could not safely remain at home, even with reasonable services being provided, the court shall make a finding that the lack of preplacement preventive efforts were reasonable.

When the minor is not released from custody the court may order that the minor shall be placed in an emergency shelter or other suitable licensed place or a place exempt from licensure designated by the juvenile court for a period not to exceed 15 judicial days.

SEC. 2. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all such limitations. The limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his or her parents or guardians unless, upon the hearing, the juvenile court finds clear and convincing evidence of any of the following:

(1) There is a substantial danger to the physical health of the minor or would be if the minor was returned home, and there are no reasonable means by which the minor's physical health can be

protected without removing the minor from the minor's parents' or guardians' physical custody.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.25, the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the minor's parents' or guardians' physical custody.

(4) The minor has been sexually abused and there are no reasonable means by which the minor can be protected from further sexual abuse without removing the minor from his or her parent or guardian or the minor does not wish to return to his or her parent or guardian.

(5) The minor, while under the age of three, was a victim of severe physical abuse by any parent or guardian seeking custody of the minor, or by any person sharing the home of the parent or guardian at the time he or she seeks custody of the minor. For the purposes of this section, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, it would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or repeated acts of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness. A minor may not be removed from the physical custody of his or her parents or guardians on the basis of a finding of severe physical abuse unless the probation officer has made such an allegation pursuant to Section 332.

(6) The minor has been left without any provision for his or her support and there is no parent or guardian available to maintain care, custody, and control of the minor due to either of the following circumstances:

(A) The minor's parent or guardian is incarcerated or institutionalized.

(B) The whereabouts of the parent or guardian is unknown and reasonable efforts to locate him or her have been unsuccessful.

The court shall state the facts on which the decision to remove the child is based. The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the child from his or her home or, if the minor is removed for one of the reasons stated in paragraph (6), whether it was reasonable under the circumstances not to make any such efforts.

The court also shall inform the parent or parents of the provisions of Section 366.25 of this code and Section 232 of the Civil Code and shall specify one of the following: (A) if the minor is removed for one of the reasons stated in paragraphs (1) to (4), inclusive, of this subdivision, or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of this subdivision, that the parent's or parents' parental rights may be terminated permanently under Section 366.25 of this code and Section 232 of the Civil Code if they are not able to resume custody within 12 months or (B) if the minor is removed because of severe physical abuse by a parent or parents as stated in paragraph (5) of this subdivision, the parental rights of the parent or parents inflicting that abuse may be terminated permanently under Section 366.25 of this code and Section 232 of the Civil Code if the court finds, upon completion of the investigation required under subdivision (e), that reunification with the parent or parents would be detrimental to the minor. In such a case, the court shall specifically advise the parent or parents of paragraph (8) of subdivision (a) of Section 232 of the Civil Code and of the consequences which may result pursuant to the provisions of that paragraph from matters proven in and found by the juvenile court.

(c) If the minor is taken from the physical custody of the minor's parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of the minor's parents or guardians in order to facilitate reunification of the family.

In the event that there are no appropriate placements available in the parents' or guardians' county, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parents' or guardians' community of residence.

Nothing in this section shall be interpreted as requiring multiple disruptions of the minor's placement corresponding to frequent changes of residence by the parents or guardians. In determining whether the minor should be moved, the probation officer will take into consideration the potential harmful effects of disrupting the placement on the minor and the parents' or guardians' reason for the move.

(d) Whenever the probation officer must change the placement of the minor and is unable to find a suitable placement within the county and must place the minor outside the county, no such placement shall be made until he or she has served written notice on the parents or guardians in the same manner as provided in Section 366 at least 14 days prior to the placement unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parents or guardians may object to the placement not later than seven days after receipt of the notice and, upon objection the court shall hold a hearing not later than five days after the objection and prior to the

placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(e) The court shall make all the findings required by subdivision (a) of Section 366 in either of the following circumstances:

(1) The minor has been taken from the custody of his or her parents or guardians and has been living in an out-of-home placement pursuant to Section 319.

(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.

(f) (1) In any case where a minor is removed from a parent's or guardian's custody for one of the reasons stated in paragraphs (1) to (4), inclusive, or in paragraph (6), of subdivision (b), or because of severe physical abuse inflicted by a person other than the parent or parents pursuant to paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. When counseling or other treatment services are ordered, the parent shall be ordered to participate in those services, unless the parent's participation is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period. In any case where a minor is removed from a parent's or guardian's custody because of severe abuse by a parent or parents as stated in paragraph (5) of subdivision (b), the juvenile court shall order the probation officer to provide appropriate reunification services except unsupervised visits and trial placements in the home and to investigate the circumstances surrounding the severe physical abuse of the minor and to prepare a report which advises the court whether there are circumstances which, in spite of the severe physical abuse, indicate that it would not be detrimental to the minor to continue to attempt reunification of the family. The probation officer shall provide the parent or parents with a copy of the report, including his or her conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family, at least 14 days before the hearing. This report shall be submitted to the juvenile court at the first review hearing required by subdivision (a) of Section 366. The report shall include a statement of the circumstances relied upon in drawing the conclusion that it would or would not be detrimental to the minor to continue to attempt reunification of the family. If the report concludes that reunification would be detrimental to the minor, the report shall make recommendations concerning an appropriate permanent plan for the minor.

If the parent or guardian is incarcerated or institutionalized, reasonable services may include, but shall not be limited to, all of the following:

(A) Maintaining contact between parent and child through collect phone calls.

(B) Transportation services where appropriate.

(C) Visitation services where appropriate.

(D) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.

An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available.

(2) Services need not be ordered when the court finds, by clear and convincing evidence, any of the following:

(A) That the whereabouts of the parent is unknown. A finding pursuant to this subparagraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent. The posting or publication of notices is not required in such a search.

(B) That the parent is incarcerated or institutionalized and the court finds that the resources or policies and procedures of the facility do not permit the provision of the services.

(C) That the parent is suffering from a mental disability that is described in paragraph (5) or (6) of subdivision (a) of Section 232 of the Civil Code and that renders him or her incapable of utilizing those services.

(3) If the whereabouts of a parent become known within six months of the out-of-home placement of the minor, the court shall order the probation officer to provide family reunification services in accordance with this subdivision.

When a parent is released from incarceration or institutionalization, the court shall order the probation officer to provide family reunification services in accordance with this subdivision.

(4) In making a determination pursuant to this subdivision, in addition to other evidence, the court may take into consideration evidence of past efforts made to facilitate the reunification of the parent and any other of his or her children.

CHAPTER 441

An act to amend Sections 51, 75.10, 75.70, and 20505 of, and to add Section 75.16 to, the Revenue and Taxation Code, relating to property taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1985. Filed with Secretary of State July 31, 1985]

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

SECTION 1. Section 51 of the Revenue and Taxation Code is amended to read:

51. For purposes of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for each lien date after the lien date in which the base year value is determined pursuant to Section 110.1, the taxable value of real property shall be the lesser of:

(a) Its base year value, compounded annually since the base year by an inflation factor, which shall be determined as follows:

(1) For any assessment year commencing prior to January 1, 1985, the inflation factor shall be the percentage change in the cost of living, as defined in Section 2212.

(2) For any assessment year commencing after January 1, 1985, the inflation factor shall be the percentage change from December of the prior fiscal year to December of the current fiscal year in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations; provided, that the percentage increase for any assessment year determined pursuant to paragraph (1) or (2) shall not exceed 2 percent of the prior year's value.

(b) Its full cash value, as defined in Section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value.

(c) If the property was damaged or destroyed by disaster, misfortune, or calamity and the board of supervisors of the county in which the property is located has not adopted an ordinance pursuant to Section 170, or removed by voluntary action by the taxpayer, the sum of (1) the lesser of its base year value of land determined under subdivision (a) or full cash value of land determined pursuant to subdivision (b), plus (2) the lesser of its base year value of improvements determined under subdivision (a) or the full cash value of improvements determined pursuant to subdivision (b), which shall then become the base year value until such property is restored, repaired, or reconstructed or other provisions of law require establishment of a new base year value.

(d) If the property was damaged or destroyed by disaster, misfortune or calamity and the board of supervisors in the county in which the property is located has adopted an ordinance pursuant to Section 170, its assessed value as computed pursuant to Section 170.

(e) For purposes of subdivisions (a) and (b), "real property" means that appraisal unit which persons in the marketplace commonly buy and sell as a unit, or which are normally valued separately.

(f) Nothing in this section shall be construed to require the

assessor to make an annual reappraisal of all assessable property.

SEC. 2. Section 75.10 of the Revenue and Taxation Code is amended to read:

75.10. (a) Commencing with the 1983–84 assessment year and each assessment year thereafter, whenever a change in ownership occurs or new construction resulting from actual physical new construction on the site is completed, the assessor shall appraise the property changing ownership or the new construction at its full cash value (except as provided in Section 68 and subdivision (b) of this section) on the date the change in ownership occurs or the new construction is completed. The value so determined shall be the new base year value of the property or the new construction.

(b) For purposes of this chapter, "actual physical new construction" includes the removal of a structure from land. The new base year value of the remaining property (after the removal of the structure) shall be determined in the same manner as provided in subdivision (c) of Section 51.

(c) For purposes of this section, "actual physical new construction" includes the discovery of previously unknown reserves of oil or gas.

SEC. 3. Section 75.16 is added to the Revenue and Taxation Code, to read:

75.16. For the purpose of computing the value of the fixtures added to and subtracted from real property pursuant to Section 75.15, the value of a removed fixture shall be included in the computation, whether or not the removal is associated with other new construction.

SEC. 4. Section 75.70 of the Revenue and Taxation Code is amended to read:

75.70. (a) Notwithstanding any other provision of law, for the 1983–84 fiscal year, each county auditor shall allocate to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, and without respect to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, an amount equal to the additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments for the current roll under this chapter. Additional revenues generated by a rate or rates levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution shall be allocated to the fund for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the preceding monthly or

four-weekly accounting period.

(b) For the 1984–85 fiscal year, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate to the county the amount determined pursuant to Section 75.60.

(3) Allocate to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate to each community college district and county superintendent of schools within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate to each city within the county an amount equal to the total amount of additional revenue generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(6) Allocate to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5. The amount allocated to each special district which is governed by the board of supervisors of a county or whose governing board is the same as the board of supervisors of a county, shall be subject to Section 98.6.

(7) Allocate the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public

Instruction for purposes of the advance apportionment of state aid in the then current fiscal year.

(8) Allocate additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the preceding monthly or four-weekly accounting period.

(c) For the 1985–86 fiscal year, and each fiscal year thereafter, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(3) Allocate to each county superintendent of schools and community college district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate to each city within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5. The amount allocated to each special district which is governed by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be subject to Section 98.6.

(6) Allocate the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for the purposes of the advance apportionment of state aid in the then current fiscal year.

(7) Allocate additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the monthly or four-weekly preceding accounting period.

(d) For purposes of the certification made by the Superintendent of Public Instruction pursuant to subdivision (a), the average daily attendance of the following districts shall be deemed to be zero:

(1) In the case of multicounty districts, the portions of the districts located other than in the county of control.

(2) Any district which received two thousand four hundred dollars ($2,400) or one hundred twenty dollars ($120) per average daily attendance, whichever is greater, in the prior fiscal year.

(e) The Superintendent of Public Instruction shall certify the appropriate counts of average daily attendance pursuant to subdivision (a) to each county auditor no later than July 15 of each applicable fiscal year.

(f) On or before November 15 and April 15, the auditor of each county shall furnish to the Superintendent of Public Instruction the estimated amount of tax receipts pursuant to this section of each school district situated within his or her county.

(g) In the event property tax revenues under this chapter are generated by a change in ownership or completed new construction which occurred on or before May 31, 1984, but are collected subsequent to the 1983–84 fiscal year, the revenues for the current roll shall be allocated to school districts as if they had been collected and allocated during this 1983–84 fiscal year. Any of the aforementioned revenues which are collected in the 1984–85 fiscal year shall be applied to school apportionments for the 1984–85 fiscal year.

SEC. 5. Section 20505 of the Revenue and Taxation Code is amended to read:

20505. "Claimant" means an individual who—

(a) For purposes of this chapter was either (1) 62 years of age or older on the last day of the calendar year or approved fiscal year designated in subdivision (b) or (c) of Section 20503, whichever is applicable, or (2) blind or disabled, as defined in Section 12050 of the Welfare and Institutions Code on the last day of the calendar year or approved fiscal year designated in subdivision (b) of Section 20503,

who was a member of the household, and who was either: (1) the owner and occupier of a residential dwelling on the last day of the year designated in subdivision (b) or (c) of Section 20503, or (2) the renter of a rented residence on or before the last day of the year designated in subdivision (b) of Section 20503. An individual who qualifies as an owner-claimant may not qualify as a renter-claimant for the same year.

(b) (1) For purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), and Chapter 3.5 (commencing with Section 20640) was a member of the household and either an owner-occupant, or a tenant stockholder occupant, or a possessory interest holder occupant, or a mobilehome owner-occupant, as the case may be, of the residential dwelling as to which postponement is claimed on the last day of the year designated in subdivision (b) or (c) of Section 20503, and who was 62 years of age or older by December 31 of the fiscal year for which postponement is claimed provided, for purposes of eligibility for postponement of taxes for the 1977–78 fiscal year, an individual must be 62 years of age or older by March 15, 1978.

(2) For purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), and Chapter 3.5 (commencing with Section 20640) was a member of the household and an owner-occupant of the residential dwelling as to which postponement is claimed on the last day of the year designated in subdivision (c) of Section 20503, and who was blind or disabled, as defined in Section 12050 of the Welfare and Institutions Code, at the time of application or on December 10 of the fiscal year for which postponement is claimed, whichever is earlier.

(c) Where amounts have been postponed for any given fiscal year and the claimant continues to own and occupy the residential dwelling on December 31 of the calendar year in which the fiscal year begins, and the claimant sells the dwelling and buys a new residential dwelling in this state on or before December 31 of the following fiscal year and the new dwelling is the claimant's principal place of residence, then in that event, the claimant shall be deemed to be a qualified claimant for the purpose of this section. These regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 6. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make necessary technical statutory changes to facilitate the implementation of the new property tax postponement program for blind and disabled citizens at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 442

An act to amend Section 20999.25 of the Business and Professions Code, relating to petroleum franchises.

[Approved by Governor July 31, 1985 Filed with Secretary of State July 31, 1985]

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

SECTION 1. Section 20999.25 of the Business and Professions Code is amended to read:

20999.25. (a) In the case of leased marketing premises as to which the franchisor owns a fee interest, the franchisor shall not sell, transfer, or assign to another person the franchisor's interest in the premises unless the franchisor has first either made a bona fide offer to sell, transfer, or assign to the franchisee the franchisor's interest in the premises, other than signs displaying the franchisor's insignia and any other trademarked, servicemarked, copyrighted or patented items of the franchisor, or, if applicable, offered to the franchisee a right of first refusal of any bona fide offer acceptable to the franchisor made by another to purchase the franchisor's interest in the premises.

(b) In the case of leased marketing premises which the franchisor leases from a third party, following notice by the franchisor to the franchisee of termination or nonrenewal of the franchise by reason of the expiration of the franchisor's underlying lease from the third party, the franchisor shall, upon request by the franchisee and subject to the franchisee purchasing or leasing the premises from the third party prior to the date of termination or nonrenewal of the franchise set forth in the notice, make a bona fide offer to sell to the franchisee any interest the franchisor may have in the improvements on the premises, other than signs displaying the franchisor's insignia and any other trademarked, servicemarked, copyrighted or patented items of the franchisor, at a price not to exceed the fair market value of the improvements or the book value, whichever is greater, or, if applicable, offer the franchisee a right of first refusal of any bona fide offer acceptable to the franchisor made by another to purchase the franchisor's interest in the improvements. For the purposes of this subdivision, "book value" means actual cost less actual depreciation taken.

(c) Nothing in this section shall be deemed to require a franchisor to continue an existing franchise agreement or to renew a franchise relationship if not otherwise required by federal law.

(d) For the purposes of this section, the following terms shall have the following meanings:

(1) "Marketing premises" means, in the case of any franchise, premises which, under such franchise, are to be employed by the franchisee in connection with the sale, consignment, or distribution of motor fuel.

(2) "Leased marketing premises" means marketing premises owned, leased, or in any way controlled by a franchisor and which the franchisee is authorized or permitted, under the franchise, to employ in connection with the sale, consignment, or distribution of motor fuel.

CHAPTER 443

An act to amend Section 12412 of the Insurance Code, relating to insurance.

[Approved by Governor July 31, 1985 Filed with Secretary of State July 31, 1985.]

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

SECTION 1. Section 12412 of the Insurance Code is amended to read:

12412. Nothing in this article prohibits the division of fees or charges, for work and services actually performed, between title insurers or between title insurers and underwritten title companies or between underwritten title companies, if such division does not constitute an unlawful rebate as defined by Section 12404.5, or is prohibited by Section 12405.7 or 12408.5. The entire charge made to obtain a title policy shall be set forth on the title policy.

CHAPTER 444

An act to amend Sections 1032.7 and 2019 of the Code of Civil Procedure, relating to depositions.

[Approved by Governor July 31, 1985 Filed with Secretary of State July 31, 1985]

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

SECTION 1. Section 1032.7 of the Code of Civil Procedure is amended to read:

1032.7. Any person allowed costs under the provisions of this chapter shall, in addition to other costs, be entitled to the reasonable cost of taking, videotaping, and transcribing depositions, together with the reasonable cost of one copy of each deposition, unless it shall appear to the court that the taking of the deposition was unnecessary, or, if the deposition was videotaped, that the videotaping was unnecessary in which case that cost shall not be allowed, and, in addition, the reasonable cost of one copy of all depositions taken by the party or parties against whom such costs are allowed.

SEC. 2. Section 2019 of the Code of Civil Procedure is amended to read:

2019. (a) (1) A party desiring to take the deposition of any person upon oral examination shall give notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice must be at least 10 days, adding also one day for every 300 miles of the distance of the place of examination from the residence of the person to whom the notice is given, except that on motion of any party, with or without notice, and for good cause shown, the court may enlarge or shorten the time, or may stay the taking of the deposition until the hearing and determination of a motion for an order pursuant to subdivision (b) of this section. Service of the notice or motion may be made upon any party or his attorney in the manner provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(2) Notwithstanding Section 1989 and the distance provisions specified in paragraph (4), the deposition, whether of a party or any other person, shall be taken only in the county of residence of the deponent or at a place not more than 75 miles from the residence of the deponent or, if the deponent is a party, in the county of place of trial when the place of deposition is less than 150 miles from the residence of the deponent, unless the court, pursuant to paragraph (1) or (2) of subdivision (b), otherwise orders. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions.

(3) If an adverse party is in default for not appearing within the time allowed by the law or the court, or if, in a special proceeding, some or all of the parties interested have not appeared, a deposition may be taken without the giving of any notice to the party so in default or not appearing; and in any case on motion of any party, with or without notice, and for good cause shown, the court may authorize the taking of a deposition without the giving of notice to parties who have not been served with summons.

(4) In the case of depositions of a party to the record of any civil

action or proceeding or of anyone who at the time of taking the deposition is an officer, director or managing agent of that party, the service of a subpoena upon that deponent is not required if proper notice of the taking of the deposition is given to the attorney for the party or to the party, if the party has no attorney. In the case of depositions of a person for whose immediate benefit an action or proceeding is prosecuted or defended or of anyone who at the time of taking the deposition is an officer, director or managing agent of that person, the service of a subpoena upon that deponent is not required if proper notice of the taking of the deposition is given to the attorney of the party prosecuting or defending the action or proceeding for the immediate benefit of the deponent or to that party, if the party has no attorney. A notice to take the deposition of a person described in this paragraph cannot require the attendance of that person at a place more than 150 miles from the residence of the person, unless the party desiring to take the deposition first obtains an order pursuant to the provisions of paragraph (2) of subdivision (b).

(5) In the case of depositions for which the production of books, documents, or other things is required of a party to the record of any civil action or proceeding or person for whose immediate benefit an action or proceeding is prosecuted or defended or anyone who is an officer, director, or managing agent of that party or person, the service of a subpoena duces tecum and affidavit upon that person is not required if proper notice is served upon the attorney of the party or person. The notice shall specify the exact materials or things to be produced.

(6) A party may, in the party's notice or in a subpoena, name as the deponent a public or private corporation or partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent, to testify on its behalf, and may set forth, for each person designated, the matters on which each person will testify in accordance with the demand. A subpoena shall advise a nonparty organization of its duty to make such a designation. The person so designated shall testify as to matters known or reasonably available to the organization. This subdivision does not preclude taking a deposition by any other procedure authorized by law and does not preclude the party, on such terms as are just, from offering evidence by other witnesses regarding the matters specified in the notice or subpoena.

(b) (1) Upon motion seasonably made by any party or by the person to be examined or notified to produce books, documents, or other things and upon notice, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case for good cause shown, the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only at some designated time or place other than stated in

the notice of taking the deposition, or that the deposition may be taken outside the county of residence and at a place more than 75 miles and less than 150 miles from the residence of the deponent in cases not provided for by paragraph (2) of subdivision (a) of this section, or that it shall not be taken except by allowing written interrogatories by one or more parties, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, books, documents, or other things, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed the deposition shall be opened only by order of the court, or that secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs and expenses, including attorney's fees, as the court may deem reasonable.

(2) Notwithstanding Section 1989, the court may, upon motion on 10 days' written notice and for good cause shown, make an order requiring a deponent who is a party to the record of any civil action or proceeding or is a person for whose immediate benefit the action is prosecuted or defended or is at the time of the taking of the deposition an officer, director or managing agent of any such party or person to attend a deposition at a place more than 150 miles from the residence of such deponent. In granting or refusing the order, the court shall consider whether the moving party selected the forum, whether the deponent will be present at the trial, the convenience of the deponent, the suitability of discovery through a deposition by written interrogatories or other discovery methods, the number of depositions sought under this section, the expense to the parties of requiring the deponent to be taken within 150 miles of the residence of the deponent, the whereabouts of the deponent at the time the deposition is scheduled to be taken, and all other factors tending to show whether or not the interests of justice and the convenience of the parties and witnesses will be served by requiring the deponent to appear for the deposition at a place more than 150 miles from the deponent's residence. The order may provide that the party desiring to take the deposition shall pay the reasonable expenses incurred by the deponent in attending the deposition and that the party furnish an undertaking approved by the court to secure that payment and may contain such other terms and conditions as are equitable and just.

(c) The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken

stenographically and transcribed unless the parties agree otherwise. A party may videotape the deposition if the notice of taking deposition states that the deposition will also be videotaped, or if all parties agree that the deposition will also be videotaped. The videotape operator shall be a person before whom depositions may be taken as provided in Section 2018. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

(d) At any time during the taking of the deposition, on motion of any party or of the deponent, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the superior court in the county where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subdivision (b) of this section. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. In granting or refusing that order the court may impose upon either party or upon the witness the requirement to pay such costs or expenses, including attorney's fees, as the court may deem reasonable.

(e) (1) Unless the parties agree on the record to another procedure for reading, correcting, and signing the original of the deposition, when the testimony is fully transcribed the officer shall notify the deponent and counsel in writing that the original of the deposition is available for reading, correcting and signing at the office of the officer, and shall remain so available during business hours of business days for a period of 30 calendar days following such notification. The examination and reading of the transcribed testimony may be waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition. The deponent may correct or approve or refuse to approve the deposition for a period of 30 days following the notification prescribed in this subdivision by means of a letter addressed and mailed or delivered to the transcribing officer indicating any changes to be made, approval, or refusal to approve the deposition. The changes, approval, or refusal to approve the

deposition, when made by letter, shall be equivalent to personal changes, approval, or refusal to approve the deposition.

If the deponent fails to appear at the office of the officer or notify him or her by letter as provided in this subdivision within the 30-day period, or if the witness so appears or sends the letter but refuses to approve or sign the deposition, the officer shall indicate on the original the fact that the deponent failed to appear, or the fact that the deponent refused to sign together with any reason given therefor. Thereafter the deposition shall have the same force and effect as though it had been read, corrected and signed by the deponent, unless on a motion to suppress under subdivision (d) of Section 2021 the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(2) The stenographic transcript of the deposition prepared by the officer employed by the person noticing the deposition, shall constitute the official record of the deposition for the purpose of trial and any subsequent hearing or appeal. In cases where the deposition was also videotaped, the court may permit the playing of the original videotape or portions thereof for the purpose of the trial or any hearing, other than an appeal, upon a showing of good cause.

(3) The original videotape shall be retained by the operator who recorded the deposition. That operator shall, upon request, provide any party with a copy of the recording upon payment of a reasonable charge.

The operator may discard the videotape after written notice to all parties unless a party promptly objects thereto in writing. The written transcript of the videotaped deposition shall be certified, delivered, and used in the same manner as other transcripts.

(f) (1) The officer shall certify on the deposition and each copy thereof that the witness was duly sworn by that officer and that the deposition is a true record of the testimony given by the witness. Promptly upon the correction, approval, or refusal to approve the deposition, or upon the expiration of 30 calendar days following notification to the witness that the deposition is available for reading, correcting and signing, the officer shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)". Depositions shall not be filed unless and until their contents become relevant to an issue in the trial or other pending proceedings at which time the court may order that the deposition or a copy thereof certified by the officer, reflecting any changes made by the witness, be filed as part of the record.

(2) The officer taking the deposition shall give prompt notice to all parties of (i) the availability of the deposition for reading, correction, and approval; and (ii) all changes in the deposition made by the witness. Upon request made before the delivery or mailing of the deposition and payment of reasonable charges therefor, the officer shall furnish a certified copy of the deposition to any party to the action or to the deponent.

(3) Unless the parties agree on the record that the party noticing the deposition shall do so, the officer taking the deposition shall keep the deposition for six months following the final disposition of the case. If the officer discontinues his or her occupation of taking depositions, by reason of death or otherwise, the officer or an agent of the officer shall file the deposition with the court.

Whenever a deposition is taken out of this state pursuant to Section 2024, or by stipulation of the parties, the officer before whom the deposition is taken shall, by accepting the commission or undertaking to act pursuant to agreement, be deemed to have consented to be bound by all provisions of this code relating to the reporting, transcribing, certification, copying, signing, refusal to sign or change, sealing, and custody of the deposition, unless otherwise agreed by the parties on the record.

Notwithstanding paragraph (1) of subdivision (f), if the officer before whom such a deposition is taken is not a shorthand reporter having in this state a place of business where the deposition will be kept, the officer shall promptly upon sealing, send the deposition to the clerk of the court in which the action is pending for filing, unless the parties agree on record to the contrary. The clerk shall accept and file the deposition.

A reasonable filing fee, as determined by the Judicial Council, may be charged by the clerk for filing a deposition. In the event a filing fee is charged, the fee shall be paid to the officer at the time the deposition is taken by the party noticing it or by stipulation, and the officer shall pay the fee to the clerk at the time of filing.

(g) (1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay that other party the amount of the reasonable expenses incurred by that other party and that other party's attorney in so attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney because that other party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by such other party and such other party's attorney in so attending, including reasonable attorney's fees.

(h) The Judicial Council may adopt rules governing the display and presentation of videotaped depositions in court.

CHAPTER 445

An act to amend Sections 32503, 33086, 33118, 33141, 33142, 33143, 33146, 33201, 33222, 33223, 33224, 33225, 33251, 33252, 33253, 33256, 33262, 33264, 33265, 33291, 33292, 33294, and 33731 of, to amend and renumber Section 33295 of, to amend the heading of Article 8 (commencing with Section 33251) and Article 10 (commencing with Section 33321) of Chapter 4 of Part 1 of Division 15 of, to add Sections 33295 and 33297 to, to repeal and add Section 33226 of, to repeal Sections 33144, 33145, 33227, 33255, 33258, 33259, 33323, and 33324 of, and to repeal and add Article 5 (commencing with Section 33171) of Chapter 4 of Part 1 of Division 15 of, the Food and Agricultural Code, relating to milk and milk products.

[Approved by Governor July 31, 1985 Filed with Secretary of State July 31, 1985]

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

SECTION 1. Section 32503 of the Food and Agricultural Code is amended to read:

32503. "Approved milk inspection service" means a milk inspection unit and laboratory which are maintained in connection with a county for the purpose of grading market milk and inspecting dairy farms which are producing market milk, or in connection with a county or city for the purpose of inspecting establishments as provided for in Section 33704, within an area which is designated and assigned by the director, conformable to this division and the regulations established by the director, which inspection service has been approved in writing by the director.

SEC. 2. Section 33086 of the Food and Agricultural Code is amended to read:

33086. The members of the advisory committee shall include persons representing producers, milk products plants, approved milk inspection services personnel, and the public generally. The advisory committee shall consist of such number of members as the director finds is necessary to assist properly in the administration of this chapter. In no event shall the membership of the advisory committee exceed seven members.

SEC. 4. Section 33118 of the Food and Agricultural Code is amended to read:

33118. The director shall, from time to time, conduct special refresher courses which shall not exceed five days, at various convenient places in the state for the purpose of training persons who are employed by the department and by each county in the enforcement of this division, regulations of the director, or the ordinances of any county which relate to the inspection of dairy farms, milk products plants, or milk products, in all of the following:

(a) Dairy science.

(b) Uniform methods of enforcement of this division.

(c) The regulations of the director.

(d) Ordinances of counties which concern dairy farms, milk products plants, and milk products.

(e) Other pertinent information which concerns dairy farms, milk products plants, and milk products.

SEC. 7. Section 33141 of the Food and Agricultural Code is amended to read:

33141. If a producer produces market milk within the jurisdiction of an approved milk inspection service, the director, after an investigation and consultation with the health officer of each county which is involved, shall do all of the following:

(a) Designate and assign the county approved milk inspection service which shall conduct the dairy farm inspection.

(b) Define the district or area in which each county shall conduct the dairy farm inspection.

SEC. 8. Section 33142 of the Food and Agricultural Code is amended to read:

33142. The director, in making the designation and assignment, shall take into consideration, in addition to other matters which are considered, the geographical convenience of each county approved milk inspection service which renders such inspection, and the percentage of market milk and related products which are sold or delivered within each.

SEC. 9. Section 33143 of the Food and Agricultural Code is amended to read:

33143. No more than one approved milk inspection service may be designated by the director for any single dairy farm which produces market milk.

SEC. 10. Section 33144 of the Food and Agricultural Code is repealed.

SEC. 11. Section 33145 of the Food and Agricultural Code is repealed.

SEC. 12. Section 33146 of the Food and Agricultural Code is amended to read:

33146. Any producer or approved milk inspection service may file with the director a written protest regarding any designation which is made pursuant to Section 33141. A petition, signed by 51 percent or more of producers of any grade of milk within the jurisdiction of any approved milk inspection service, may request the termination of the county approved milk inspection service and that instead an inspection service be established by the director. The written protest or petition shall state all the reasons for the protest or petition.

SEC. 13. Article 5 (commencing with Section 33171) of Chapter 4 of Part 1 of Division 15 of the Food and Agricultural Code is repealed.

SEC. 14. Article 5 (commencing with Section 33171) is added to Chapter 4 of Part 1 of Division 15 of the Food and Agricultural Code,

to read:

Article 5. Establishment of Inspection Service by Director

33171. In areas in which an approved milk inspection service has not been designated by the director pursuant to Article 4 (commencing with Section 33141), the director shall establish and conduct a milk inspection service for inspection of dairy farms. In all areas the director shall establish and conduct a milk inspection service for inspection of milk products plants, and for inspection of the facilities of distributors that obtain milk and milk products from a milk products plant not subject to the jurisdiction of the director.

SEC. 15. Section 33201 of the Food and Agricultural Code is amended to read:

33201. Counties may, subject to the approval of the director, contract, one with the other, for the maintenance by one, or some of them, of the approved milk inspection service within the limits of the other as will best carry out this division and avoid duplication.

SEC. 16. Section 33222 of the Food and Agricultural Code is amended to read:

33222. Every person, before engaging in the business of producing market milk, shall obtain a permit from the director or from the approved milk inspection service which is maintained by the county which is designated by the director pursuant to this chapter for each dairy farm.

SEC. 17. Section 33223 of the Food and Agricultural Code is amended to read:

33223. If a permit is issued by an approved milk inspection service designated by the director to a producer of market milk, no other permit shall be required of the producer by any other approved milk inspection service.

SEC. 18. Section 33224 of the Food and Agricultural Code is amended to read:

33224. Upon receipt of an application for a permit, the director or approved milk inspection service shall cause an investigation to be made of the dairy farm where milk is produced and of the herd which produces the milk.

SEC. 19. Section 33225 of the Food and Agricultural Code is amended to read:

33225. If this division and the standards which are established by or adopted pursuant to the authority which is granted in this division are complied with and the applicant's milk is to be delivered within a county which maintains an approved milk inspection service, a permit shall be issued by the director or the approved milk inspection service, to the dairy farm. The permit shall be issued for a period not to exceed one year.

SEC. 20. Section 33226 of the Food and Agricultural Code is repealed.

SEC. 20.5. Section 33226 is added to the Food and Agricultural

Code, to read:

33226. Every person shall obtain a permit from the director before engaging in the business of processing or distributing market milk. Upon receipt of an application for a permit, the director shall cause an investigation to be made of the milk products plant or place of business from which milk is distributed. If this division and the standards which are established pursuant to the authority which is granted in this division are complied with, a permit shall be issued by the director to the milk products plant or place of business. The permit shall be issued for a period not to exceed one year.

SEC. 21. Section 33227 of the Food and Agricultural Code is repealed.

SEC. 21.5. The heading of Article 8 (commencing with Section 33251) of Chapter 4 of Part 1 of Division 15 of the Food and Agricultural Code is amended to read:

Article 8. Fees Payable to a County

SEC. 22. Section 33251 of the Food and Agricultural Code is amended to read:

33251. The county which maintains an approved milk inspection service where an inspection fee is levied and collected shall determine the actual cost of making an inspection of a dairy farm which produces market milk within the area which is designated and assigned to that service by the director. Records of the cost determination shall be made and maintained by the county for examination by the director or other interested person.

SEC. 23. Section 33252 of the Food and Agricultural Code is amended to read:

33252. For the purpose of maintaining an approved milk inspection service, the county may, but is not required to, levy and collect an inspection fee or fees from producers of market milk which is produced at dairy farms within the area which is designated and assigned to that service by the director.

SEC. 24. Section 33253 of the Food and Agricultural Code is amended to read:

33253. The dairy farm inspection fee shall not exceed the actual cost to the county of making the dairy farm inspection.

SEC. 25. Section 33255 of the Food and Agricultural Code is repealed.

SEC. 26. Section 33256 of the Food and Agricultural Code is amended to read:

33256. The cost of the inspections may include all directly related costs.

SEC. 27. Section 33258 of the Food and Agricultural Code is repealed.

SEC. 28. Section 33259 of the Food and Agricultural Code is repealed.

SEC. 29. Section 33262 of the Food and Agricultural Code is

amended to read:

33262. Ten percent of the producers within any approved inspection area may file with the director a written protest as to the reasonableness of any inspection fee which is levied and collected from the producer pursuant to Section 33252.

SEC. 30. Section 33264 of the Food and Agricultural Code is amended to read:

33264. Upon the completion of hearing, the director may establish a reasonable fee for the inspection which is the subject of the protest. Thereafter until the order of the director is revoked, suspended, or amended, the producer, notwithstanding any other provision of this article, is not required to pay to the approved milk inspection service any inspection fee in excess of the fee which is designated as reasonable by the director. The director shall make, and maintain, written findings upon which inspection fees are established pursuant to this section. The written findings shall be readily available to any interested person for examination.

SEC. 31. Section 33265 of the Food and Agricultural Code is amended to read:

33265. A county shall not, through an approved milk inspection service or otherwise, levy or collect any fee or tax for the purpose of inspecting any milk or dairy product on any truck or other vehicle or during transportation of that milk or dairy product.

SEC. 32. Section 33291 of the Food and Agricultural Code is amended to read:

33291. Every person that is engaged in the production of market milk outside the jurisdiction of an approved milk inspection service and every person engaged in the processing, manufacture, or distribution of milk, milk products, or products resembling milk products shall pay an inspection fee to the director.

SEC. 33. Section 33292 of the Food and Agricultural Code is amended to read:

33292. Every milk products plant that is subject to this chapter shall deduct from payments which are due producers for market milk, and shall pay to the director, the fee required to be paid by the producer.

SEC. 34. Section 33294 of the Food and Agricultural Code is amended to read:

33294. The director shall fix the fee for dairy farm inspection not to exceed the actual directly related costs. Whenever the director finds that the cost of administering this chapter can be defrayed from revenue derived from lower fees, the director may adjust the fee, but in no case shall the inspection fee for producers who sell market milk at wholesale which is to be sold as graded market milk, exceed three mills ($0.003) per gallon of the first 45,000 gallons only on graded market milk which was sold during the quarter-year period preceding the date the inspection fee becomes due and payable. Notwithstanding the fee limit specified in this section for producers, the director may increase the inspection fee by an amount not to

exceed one quarter mill ($0.00025) per gallon per annum.

SEC. 35. Section 33295 of the Food and Agricultural Code is amended and renumbered to read.

33296. The director shall make, and maintain, written findings upon which inspection fees are fixed pursuant to Sections 33294 and 33295. The written findings shall be readily available to any interested person for examination.

SEC. 36. Section 33295 is added to the Food and Agricultural Code, to read:

33295. The director shall fix the inspection fees for each person provided for in Section 33291, not to exceed actual directly related costs for inspection. The basis for fees established for each person specified in Section 33291 shall not include any costs for inspection functions performed by the state for milk products other than market milk products which are the same as, or substantially similar to, inspection functions performed by the United States Department of Agriculture or any other federal or state agency. Costs for inspection shall be determined from time records and audit procedures set forth in written findings pursuant to the requirements of Section 33296.

SEC. 37. Section 33297 is added to the Food and Agricultural Code, to read:

33297. Any person subject to inspection fees provided for in Section 33291 may file with the director a written protest as to the reasonableness of any inspection fee which is levied and collected from those persons.

The director shall, after 30 days notice, hold a hearing on the protest and upon completion of the hearing, the director shall make and maintain written findings as to whether or not the fee is reasonable.

SEC. 38. The heading of Article 10 (commencing with Section 33321) of Chapter 4 of Part 1 of Division 15 of the Food and Agricultural Code is amended to read:

Article 10. Inspection of Dairy Farms Producing Manufacturing Milk

SEC. 39. Section 33323 of the Food and Agricultural Code is repealed.

SEC. 40. Section 33324 of the Food and Agricultural Code is repealed.

SEC. 41. Section 33731 of the Food and Agricultural Code is amended to read:

33731. No new milk products plant shall be constructed nor shall extensive repairs be made to any existing milk products plant unless plans or specifications which show in detail the nature of the construction or alteration have been submitted to the director and unless the plans and specifications have received the director's approval in writing.

SEC. 42. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 446

An act to amend Sections 61408, 61410, 61418, and 61932 of, and to add Article 8 (commencing with Section 61490) to Chapter 1 of Part 3 of Division 21 of, the Food and Agricultural Code, relating to manufacturing milk, and making an appropriation therefor.

[Approved by Governor July 31, 1985 Filed with Secretary of State July 31, 1985]

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

SECTION 1. Section 61408 of the Food and Agricultural Code is amended to read:

61408. Upon any action being commenced upon the bond, the director may require the filing of a new bond in the amount determined by the director to be sufficient to satisfy claims for payment of producers thereafter supplying manufacturing milk to the manufacturing milk handler, and immediately upon a recovery in any action upon the bond, the failure of a manufacturing milk handler to have filed a new bond within 10 days after notice from the director constitutes grounds for the revocation or suspension of the manufacturing milk handler's license of the manufacturing milk handler.

SEC. 2. Section 61410 of the Food and Agricultural Code is amended to read:

61410. The failure of any manufacturing milk handler that purchases manufacturing milk from producers to execute and deliver the bond as provided and required in this article shall constitute grounds for suspension, revocation, or refusal of the manufacturing milk handler's license. The failure of any handler to post any additional bond as may be required to comply with this article shall also be grounds for suspension, revocation, or refusal of the license pursuant to these procedures.

SEC. 3. Section 61418 of the Food and Agricultural Code is amended to read:

61418. If the respondent does not comply with any conditional or probationary orders, the director may suspend or revoke the license in accordance with the procedure provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Article 8 (commencing with Section 61490) is added to Chapter 1 of Part 3 of Division 21 of the Food and Agricultural Code, to read:

Article 8. Manufacturing Milk Handler Licenses

61490. For the purposes of this article, each subsidiary manufacturing milk plant, or branch manufacturing milk plant, whether under one ownership or not, shall be considered as an individual manufacturing milk handler.

61491. "Manufacturing milk handler" means any person defined as a manufacturing milk handler pursuant to Section 61402.

61492. It is unlawful for a manufacturing milk handler who is not licensed under Article 12 (commencing with Section 62141) of Chapter 2 to handle manufacturing milk without first obtaining a manufacturing milk handler's license pursuant to this article. In addition, pursuant to Section 61490, any handler shall obtain a separate license for each milk plant owned or operated. The license provided for in this article is in addition to any license which is required by Division 15 (commencing with Section 32501), or by any law or ordinance of any county or municipality of this state.

61493. Application for the license provided by this article shall be made on forms prescribed by the director, accompanied by an application fee of three dollars ($3), and state the name and address of the applicant and any details specifically related to the nature of the applicant's business that the director may require. The applicant shall further satisfy the director of his or her character, responsibility, and good faith in seeking to carry on the business stated in the application.

61494. Licenses shall be issued for a period of 12 months from the first day of each year or for the remainder of the calendar year from the date of issuance. Application for renewal of a license for the following year by a licensee, together with the application fee of three dollars ($3), shall be made prior to the expiration date of the license held. If it is not so made, the applicant shall pay an additional three dollars ($3) before the license shall be issued.

SEC. 5. Section 61932 of the Food and Agricultural Code is amended to read:

61932. Class 1 comprises:

(a) Any market milk, market skim milk, half-and-half, or concentrated milk that is supplied to consumers in the fluid state, with the exception of the following:

(1) (A) Any market milk products which are sterilized, as defined in Section 32517 and sold for use outside the state.

(B) Any market milk products which are ultrapasteurized and sold for use outside the 48 contiguous states in the United States.

(2) Any market half-and-half which is ultrapasteurized and packaged in hermetically sealed containers.

(3) Any market half-and-half which is packaged in presterilized

containers under aseptic conditions to meet the marketing requirements for such products in states other than this state. However, this paragraph does not authorize the sale within this state of any milk product as a sterilized product unless the product meets the standards and requirements for sterilized products contained in Division 15 (commencing with Section 32501).

(4) Any market milk, market skim milk, or market cream which is used in the manufacture of yogurts which are directly sold for use in states other than this state.

(b) Any market milk, market skim milk, or market cream which is used in any other milk product, or products resembling milk products, in which the use of market milk, or any components or derivatives of market milk, is required by, or pursuant to, this code, except any product defined in Section 61933 as class 2.

(c) Any market milk, market skim milk, market cream, market milk fat, or market milk solids not fat which is used in the standardizing or fortifying of any milk product which is defined in this section as class 1.

(d) Any market milk, market skim milk, or market cream which is used in any product not otherwise classified, which is required by any regulations adopted by the director pursuant to Article 2 (commencing with Section 36631) of Chapter 1 of Part 3 of Division 15 to be made from market milk or any components or derivatives of market milk.

(e) Any market milk, market skim milk, market cream, market milk fat, or market milk solids not fat used in any filled product or imitation milk product, when the product imitated or resembled, is defined in this section as class 1.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 447

An act to add Section 13952.5 to the Water Code, relating to water quality

[Approved by Governor July 31, 1985 Filed with Secretary of State July 31, 1985]

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

SECTION 1. Section 13952.5 is added to the Water Code, to read:

13952.5. The declared statewide interest in the preservation of Lake Tahoe, and the state and federal actions mandating the

transportation of treated sewage effluent out of the Lake Tahoe watershed, requires that the law relating to the authority for prescribing waste discharge requirements for the effluent, and requirements pertaining to the storage of the effluent, the receiving waters, and the disposal areas, be clarified, and that law is hereby clarified and confirmed, to provide that, notwithstanding Section 13002 or any other provision of law, the regional board for the Lahontan region has exclusive authority to prescribe, under existing law, waste discharge requirements for treated sewage effluent transported out of the Lake Tahoe watershed to Alpine County within the Lahontan region, including requirements pertaining to the storage of the effluent, the receiving waters, and the disposal areas in Alpine County within the Lahontan region. However, any such action by that regional board is subject to review as provided in Sections 13320 and 13330.

CHAPTER 448

An act to amend Sections 976.6, 1027.5, and 1612 of the Unemployment Insurance Code, relating to unemployment compensation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 1985 Filed with Secretary of State July 31, 1985]

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

SECTION 1. Section 976.6 of the Unemployment Insurance Code is amended to read:

976.6. In addition to other contributions required by this division, every employer, except an employer defined by Sections 676, 684, or 685, and except an employer which has elected an alternate method of financing its liability for unemployment compensation benefits pursuant to Article 5 (commencing with Section 801), Article 6 (commencing with Section 821), or Article 7 (commencing with Section 841) of Chapter 3, shall pay into the Employment Training Fund contributions at the rate of 0.1 percent of wages specified in Section 930. The contributions shall be collected in the same manner and at the same time as any contributions required under Sections 977 and 977.5.

This section shall remain in effect only until January 1, 1991, and on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date

SEC. 2. Section 1027.5 of the Unemployment Insurance Code is amended to read:

1027.5. On the computation date each year, the amount each employer's net balance of reserve is more negative than 21 percent

of the employer's average base payroll shall be canceled from his or her reserve balance.

The amendment made to this section by Chapter 1296 of the Statutes of 1984 shall be deemed to have become operative on June 30, 1984, and the amendment shall be given retroactive effect to that date.

SEC. 3. Section 1612 of the Unemployment Insurance Code is amended to read:

1612. This article shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 5. Sections 1, 3, and 4 of this act shall become operative only if SB 177 is chaptered during the 1985 portion of the 1985–86 Regular Session.

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 permit the Employment Development Department to implement the new unemployment insurance tax rate on employers without any disruptions, and in order to comply with the provisions of Section 271 of the federal Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248), as well as to increase the cost efficiency and the efficiency of administration of the employment training program, which will result in more moneys being directed to the retraining of workers, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 449

An act to amend Section 10218 of the Unemployment Insurance Code, relating to employment training.

[Approved by Governor July 31, 1985 Filed with Secretary of State July 31, 1985]

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

SECTION 1. Section 10218 of the Unemployment Insurance Code is amended to read:

10218. This chapter shall remain in effect only until January 1,

1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

SEC. 2. This act shall become operative only if Assembly Bill 334 is chaptered during the 1985 portion of the 1985–86 Regular Session.

CHAPTER 450

An act to amend Section 3572 of the Elections Code, relating to the state ballot pamphlet.

[Approved by Governor July 31, 1985 Filed with Secretary of State August 1, 1985]

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

SECTION 1. Section 3572 of the Elections Code is amended to read:

3572. The Legislative Analyst shall prepare an impartial analysis of the measure describing the measure and including a fiscal analysis of the measure showing the amount of any increase or decrease in revenue or cost to state or local government. Any estimate of increased cost to local governments shall be set out in boldface print in the ballot pamphlet. The analysis shall be written in clear and concise terms which will easily be understood by the average voter, and shall avoid the use of technical terms wherever possible. The analysis may contain background information, including the effect of the measure on existing law and the effect of enacted legislation which will become effective if the measure is adopted, and shall generally set forth in an impartial manner the information which the average voter needs to understand the measure adequately. The Legislative Analyst may contract with professional writers, educational specialists or other persons for assistance in writing an analysis that fulfills the requirements of this section, including the requirement that the analysis be written so that it will be easily understood by the average voter. The Legislative Analyst may also request the assistance of any state department, agency, or official in preparing his analysis. Prior to submission of the analysis to the Secretary of State, the Legislative Analyst shall submit the analysis to a committee of five persons appointed by the Legislative Analyst for the purpose of reviewing the analysis to confirm its clarity and easy comprehension to the average voter. The committee shall be drawn from the public at large, and one member shall be a specialist in education, one shall be bilingual, and one shall be a professional writer. Members of the committee shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. Within five days of the submission of the analysis to the committee, the committee shall make such recommendations to the

Legislative Analyst as it deems appropriate to guarantee that the analysis can be easily understood by the average voter. The Legislative Analyst shall consider the committee's recommendations, and he or she shall incorporate in the analysis those changes recommended by the committee that he or she deems to be appropriate. The Legislative Analyst is solely responsible for determining the content of the analysis required by this section. The title of the measure which appears on the ballot shall be amended to contain a summary of the Legislative Analyst's estimate of the net state and local government financial impact.

CHAPTER 451

An act to add Section 18004 to the Government Code, relating to state employees.

[Approved by Governor August 1, 1985. Filed with Secretary of State August 1, 1985]

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

SECTION 1. The Legislature finds and declares that permitting contracts between local government agencies and the Department of Forestry to be subject to state personnel ceilings and hiring freezes places an unnecessary impediment in the way of local and state government to provide fire protection services.

SEC. 2. Section 18004 is added to the Government Code, to read:

18004. (a) Any report, study, audit, evaluation, survey, or similar document prepared by any state officer or state agency, which discloses any change in the numbers of state employees or personnel years over any period of time, shall also segregate the numbers of counted state employees or personnel years which are attributable to positions which are fully reimbursed by a local government agency pursuant to a contract with the Department of Forestry.

(b) Those positions attributed to local government contracts with the Department of Forestry shall not be subject to state personnel ceilings and hiring freezes.

CHAPTER 452

An act to add and repeal Section 12024.12 of the Business and Professions Code, relating to kosher food, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 1, 1985 Filed with Secretary of State August 1, 1985]

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

SECTION 1. Section 12024.12 is added to the Business and Professions Code, to read:

12024.12. (a) Any person who sells fresh meat or poultry advertised or represented to be kosher shall retain for one year a true and legible copy of all invoices and records of cash or charge transactions from the packer or producer of the kosher meat or poultry and shall make these documents, and other evidence of the source of the meat being housed or sold by that person, available for inspection by the Department of Food and Agriculture or its representatives, upon request.

(b) Notwithstanding any other provision of law, the Director of Food and Agriculture shall enforce this section, as a pilot program in Los Angeles County until January 1, 1987, if adequate funding, as determined by the director, is made available.

(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. The sum of forty-six thousand dollars ($46,000) is hereby appropriated from the General Fund to the Department of Food and Agriculture to carry out its duties pursuant to Section 12024.12 of the Business and Professions Code.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 perservation 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 consumers of fresh kosher meat and poultry will be adequately protected in their choice of that product and can have confidence in the state's ensuring the reliability of that product, it is necessary that this act take effect immediately.

CHAPTER 453

An act to amend Sections 6007, 6028, 6049, 6050, 6051, 6052, 6068, 6086.5, 6086.6, 6100, 6102, 6180, 6180.2, 6180.3, 6180.5, and 6180.11 of, to add Sections 6002.1 and 6051.1 to, and to repeal and add Section 6049.1 of, the Business and Professions Code, relating to the State Bar of California.

[Approved by Governor August 31, 1985. Filed with Secretary of State September 3, 1985]

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

SECTION 1. Section 6002.1 is added to the Business and Professions Code, to read:

6002.1. (a) A member of the State Bar shall maintain on the official membership records of the State Bar the member's current office or other address for State Bar purposes. Within 10 days after any change therein, the member shall file a change of address with the membership records office of the State Bar.

(b) Every former member of the State Bar who has been ordered by the Supreme Court to comply with Rule 955 of the California Rules of Court shall maintain on the official membership records of the State Bar the former member's current address and within 10 days after any change therein, shall file a change of address with the membership records office of the State Bar until such time as the former member is no longer subject to the order.

(c) The notice initiating a proceeding conducted under this chapter may be served upon the member or former member of the State Bar to whom it is directed by certified mail, return receipt requested, addressed to the member or former member at the latest address shown on the official membership records of the State Bar. The service is complete at the time of the mailing but any prescribed period of notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the notice is served by mail shall be extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. A member of the State Bar or former member may waive the requirements of this subdivision and may, with the written consent of another member of the State Bar, designate that other member to receive service of any notice or papers in any proceeding conducted under this chapter.

SEC. 2. Section 6007 of the Business and Professions Code is amended to read:

6007. (a) When a member requires involuntary treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of Division 5 of, or Part 2 (commencing with Section 6250) of Division 6 of the Welfare and Institutions Code, or when under an order pursuant to Section 3051, 3106.5, or 3152 of the Welfare and Institutions Code he or she has been placed in or returned to inpatient status at the California Rehabilitation Center or its branches, or when he or she has been determined insane or mentally incompetent and is confined for treatment or placed on outpatient status pursuant to the Penal Code, or on account of his or her mental condition a guardian or conservator, for his or her estate or person

or both, has been appointed, the board of governors or an officer of the State Bar shall enroll the member as an inactive member.

The clerk of the appropriate court concerned in any of the above proceedings shall immediately transmit to the board a certified copy of any determination, order, or adjudication for involuntary treatment or confinement or for the appointment of a guardian or conservator.

The clerk of the appropriate court concerned shall also transmit to the State Bar a certified copy of any notice of certification for intensive treatment filed with the court pursuant to Article 4 (commencing with Section 5250) of Chapter 2 of Division 5 of the Welfare and Institutions Code.

The State Bar of California may procure a certified copy of any determination, order, adjudication, appointment, or notice when the clerk concerned has failed to transmit one or when the proceeding was had in a court other than a court of this state.

In the case of an enrollment pursuant to this subdivision, the State Bar shall terminate the enrollment when the member has had the fact of his or her restoration to capacity judicially determined, upon the member's release from inpatient status at the California Rehabilitation Center or its branches pursuant to Section 3053, 3109, or 3151 of the Welfare and Institutions Code, or upon the member's unconditional release from the medical facility pursuant to Section 5304 or 5305 of the Welfare and Institutions Code; and on payment of all fees required.

When a member is placed in, returned to, or released from inpatient status at the California Rehabilitation Center or its branches, or discharged from the narcotics treatment program, the Director of Corrections or his or her designee shall transmit to the State Bar a certified notice attesting to that fact.

(b) The board shall also enroll a member of the State Bar as an inactive member in each of the following cases:

(1) A member asserts a claim of insanity or mental incompetence in any pending action or proceeding, alleging his or her inability to understand the nature of the action or proceeding or inability to assist counsel in representation of the member.

(2) The court makes an order assuming jurisdiction over the member's law practice, pursuant to Section 6180.5 or 6190.3.

(3) After notice and opportunity to be heard before the board or a committee, the board finds that the member, because of mental infirmity or illness, or because of the habitual use of intoxicants or drugs, is (i) unable or habitually fails to perform his or her duties or undertakings competently, or (ii) unable to practice law without danger to the interests of his or her clients and the public. No proceeding pursuant to this paragraph shall be instituted unless the board or a committee finds, after preliminary investigation, or during the course of a disciplinary proceeding, that probable cause exists therefor.

In the case of an enrollment pursuant to this subdivision, the board

shall terminate the enrollment upon proof that the facts found as to the member's disability no longer exist and on payment of all fees required.

(c) (1) The board may order the involuntary inactive enrollment of an attorney upon a finding that the attorney's conduct poses an imminent threat of harm to the attorney's clients or to the public.

(2) In order to find that the attorney's conduct poses an imminent threat of harm to the attorney's clients or the public, each of the following factors shall be found, based on all the available evidence, including affidavits:

(A) The attorney has caused or is causing irreparable harm to the attorney's clients or the public.

(B) There is a substantial likelihood that the harm will reoccur or continue.

(C) If disciplinary proceedings are pending, there is a substantial likelihood that a significant sanction will be imposed on the attorney at the conclusion of the proceedings.

(D) The balance of interests, as between the attorney on the one hand and the attorney's clients and the public on the other hand, favors an involuntary inactive enrollment.

(E) The public interest would be served by an involuntary inactive enrollment.

(3) The board shall formulate and adopt rules of procedure to implement this subdivision.

In the case of an enrollment pursuant to this subdivision, the board shall terminate the involuntary inactive enrollment upon proof that the attorney's conduct no longer poses an imminent threat of harm to the attorney's clients or the public.

(d) The pendency or determination of a proceeding or investigation provided for by this section shall not abate or terminate a disciplinary investigation or proceeding except as required by the facts and law in a particular case.

(e) No membership fees shall accrue against the member during the period he or she is enrolled as an inactive member pursuant to this section.

SEC. 3. Section 6028 of the Business and Professions Code is amended to read·

6028. (a) The board may make appropriations and disbursements from the funds of the State Bar to pay all necessary expenses for effectuating the purposes of this chapter.

(b) Except as provided in subdivision (c), no member of the board shall receive any other compensation than his or her necessary expenses connected with the performance of his or her duties as a member of the board.

(c) Public members of the board appointed pursuant to the provisions of Section 6013.5, public members of the examining committee appointed pursuant to Section 6046.5, and public members of the State Bar Court appointed pursuant to Section 6086.6 shall receive, out of funds appropriated by the board for this purpose,

fifty dollars ($50) per day for each day actually spent in the discharge of official duties, but in no event shall this payment exceed five hundred dollars ($500) per month. In addition, these public members shall receive, out of funds appropriated by the board, necessary expenses connected with the performance of their duties.

SEC. 4. Section 6049 of the Business and Professions Code is amended to read:

6049. (a) In the conduct of investigations and upon the trial and hearing of all matters, the board and any committee having jurisdiction, including the examining committee, may do all of the following:

(1) Take and hear evidence pertaining to the proceeding.

(2) Administer oaths and affirmations.

(3) Compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the proceeding.

(b) In the conduct of investigations, the chief trial counsel or his or her designee, may compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the investigation.

SEC. 5. Section 6049.1 of the Business and Professions Code is repealed.

SEC. 6. Section 6049.1 is added to the Business and Professions Code, to read:

6049.1. (a) In any disciplinary proceeding under this chapter, a certified copy of a final order made by any court of record or any body authorized by law or by rule of court to conduct disciplinary proceedings against attorneys, of the United States or of any state or territory of the United States or of the District of Columbia, determining that a member of the State Bar committed professional misconduct in such other jurisdiction shall be conclusive evidence that the member is culpable of professional misconduct in this state, subject only to the exceptions set forth in subdivision (b).

(b) The board may provide by rule for procedures for the conduct of an expedited disciplinary proceeding against a member of the State Bar upon receipt by the State Bar of a certified copy of a final order determining that the member has been found culpable of professional misconduct in a proceeding in another jurisdiction conducted as specified in subdivision (a). The issues in the expedited proceeding shall be limited to the following:

(1) The degree of discipline to impose.

(2) Whether, as a matter of law, the member's culpability determined in the proceeding in the other jurisdiction would not warrant the imposition of discipline in the State of California under the laws or rules binding upon members of the State Bar at the time the member committed misconduct in such other jurisdiction, as determined by the proceedings specified in subdivision (a).

(3) Whether the proceedings of the other jurisdiction lacked fundamental constitutional protection.

The member of the State Bar subject to the proceeding under this section shall bear the burden of establishing that the issues in paragraphs (2) and (3) do not warrant the imposition of discipline in this state.

(c) In proceedings conducted under subdivision (b), the parties need not be afforded an opportunity for discovery unless the State Bar Court department or panel having jurisdiction so orders upon a showing of good cause.

(d) In any proceedings conducted under this chapter, a duly certified copy of any portion of the record of disciplinary proceedings of another jurisdiction conducted as specified in subdivision (a) may be received in evidence.

(e) This section shall not prohibit the institution of proceedings under Section 6044, 6101, or 6102, as may be appropriate, concerning any member of the State Bar based upon the member's conduct in another jurisdiction, whether or not licensed as an attorney in the other jurisdiction.

SEC. 7. Section 6050 of the Business and Professions Code is amended to read:

6050. Whenever any person subpoenaed to appear and give testimony or to produce books, papers or documents refuses to appear or testify before the subpoenaing body, or to answer any pertinent or proper questions, or to produce such books, papers or documents, he or she is in contempt of the subpoenaing body.

SEC. 8. Section 6051 of the Business and Professions Code is amended to read:

6051. The chairman or presiding officer of the board or the committee having jurisdiction or the chief trial counsel shall report the fact that a person under subpoena is in contempt of the subpoenaing body to the superior court in and for the county in which the proceeding, investigation or other matter is being conducted and thereupon the court may issue an attachment in the form usual in the superior court, directed to the sheriff of the county, commanding the sheriff to attach the person and immediately bring him or her before the court.

On the return of the attachment, and the production of the person attached, the superior court has jurisdiction of the matter, and the person charged may purge himself or herself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted, as in the case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a superior court.

In lieu of the procedure specified above, the court may enter an order directing the person alleged to be in contempt to appear before the court at a specified time and place and then and there show cause why he or she has not attended or testified or produced the writings as required. A copy of the order shall be served upon that person. If it appears to the court that the subpoena was regularly issued and no good cause is shown for the refusal to appear or testify

or produce the writings, the court shall enter an order that the person appear, testify, or produce writings, as the case may be. Upon failure to obey the order, the person shall be dealt with as for contempt of court.

A proceeding pursuant to this section shall be entitled "In the Matter of (state name), Alleged Contemnor re State Bar (proceeding, investigation or matter) No. (insert number)."

SEC. 9. Section 6051.1 is added to the Business and Professions Code, to read:

6051.1. A motion to quash a subpoena issued pursuant to Section 6049 shall be brought in the State Bar Court.

SEC. 10. Section 6052 of the Business and Professions Code is amended to read:

6052. Any member of the board, or of any committee or unit or section thereof, having jurisdiction, or the chief trial counsel or his or her designee may administer oaths and issue any subpoena pursuant to Section 6049.

Depositions may be taken and used as provided in the rules of procedure adopted by the board pursuant to this chapter.

SEC. 11. Section 6068 of the Business and Professions Code is amended to read:

6068. It is the duty of an attorney to do all of the following:

(a) To support the Constitution and laws of the United States and of this state.

(b) To maintain the respect due to the courts of justice and judicial officers

(c) To counsel or maintain such actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense.

(d) To employ, for the purpose of maintaining the causes confided to him or her such means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.

(e) To maintain inviolate the confidence, and at every peril to himself to preserve the secrets, of his or her client.

(f) To abstain from all offensive personality, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he or she is charged.

(g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest.

(h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.

(i) To cooperate and participate in any State Bar investigation or other State Bar proceeding pending against the attorney. However, this subdivision shall not be construed to deprive an attorney of any constitutional or statutory privileges.

SEC. 12 Section 6086.5 of the Business and Professions Code is

amended to read:

6086.5. The board of governors may establish one or more committees, known as the State Bar Court, to act in its place and stead in the determination of disciplinary and reinstatement proceedings and proceedings pursuant to subdivisions (b) and (c) of Section 6007 to the extent provided by rules adopted by the board of governors. In these proceedings the State Bar Court may exercise the powers and authority vested in the board of governors by this chapter, except as limited by rules of the board of governors.

For the purposes of Sections 6007, 6043, 6049, 6049.2, 6050, 6051, 6052, 6077 (excluding the first sentence), 6078, 6080, 6081, and 6082, "board" includes the State Bar Court.

Nothing in this section shall authorize the State Bar Court to adopt rules of professional conduct or rules of procedure.

SEC. 13. Section 6086.6 of the Business and Professions Code is amended to read:

6086.6. Two members of the Review Department of the State Bar Court appointed pursuant to Section 6086.5 shall consist of public members who have never been members of the State Bar or admitted to practice before any court in the United States. The nonattorney members shall be appointed by the Governor and shall serve for a term of four years except that for the initial term after enactment of this section, the first nonattorney appointed shall serve for two years and the other for four years.

SEC. 14. Section 6100 of the Business and Professions Code is amended to read:

6100. For any of the causes provided in this article, arising after an attorney's admission to practice, he or she may be disbarred or suspended by the Supreme Court. Nothing in this article limits the inherent power of the Supreme Court to discipline, including to summarily disbar, any attorney.

SEC. 15. Section 6102 of the Business and Professions Code is amended to read:

6102. (a) Upon the receipt of the certified copy of the record of conviction, if it appears therefrom that the crime of which the attorney was convicted involved or that there is probable cause to believe that it involved moral turpitude or is a felony under the laws of California or of the United States, the Supreme Court shall suspend the attorney until the time for appeal has elapsed, if no appeal has been taken, or until the judgment of conviction has been affirmed on appeal, or has otherwise become final, and until the further order of the court. Upon its own motion or upon good cause shown the court may decline to impose, or may set aside, the suspension when it appears to be in the interest of justice to do so, with due regard being given to maintaining the integrity of and confidence in the profession.

(b) For the purposes of this section, a crime is a felony under the law of California if it is declared to be so specifically or by subdivision (a) of Section 17 of the Penal Code, unless it is charged as a

misdemeanor pursuant to paragraph (4) or (5) of subdivision (b) of Section 17 of the Penal Code, irrespective of whether in a particular case the crime may be considered a misdemeanor as a result of postconviction proceedings, including proceedings resulting in punishment or probation set forth in paragraph (1) or (3) of subdivision (b) of Section 17 of the Penal Code.

(c) After the judgment of conviction of an offense specified in subdivision (a) has become final or, irrespective of any subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence, the Supreme Court shall summarily disbar the attorney if the conviction is a felony under the laws of California or of the United States which meets both of the following criteria:

(1) An element of the offense is the specific intent to deceive, defraud, steal, or make or suborn a false statement.

(2) The offense was committed in the course of the practice of law or in any manner such that a client of the attorney was a victim.

(d) Except as provided in subdivision (c), if after adequate notice and opportunity to be heard (which hearing shall not be had until the judgment of conviction has become final or, irrespective of any subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence), the court finds that the crime of which the attorney was convicted, or the circumstances of its commission, involved moral turpitude, it shall enter an order disbarring the attorney or suspending him or her from practice for a limited time, according to the gravity of the crime and the circumstances of the case; otherwise it shall dismiss the proceedings. In determining the extent of the discipline to be imposed in a proceeding pursuant to this article any prior discipline imposed upon the attorney may be considered.

(e) The court may refer the proceedings or any part thereof or issue therein, including the nature or extent of discipline, to the State Bar for hearing, report, and recommendation.

(f) The record of the proceedings resulting in the conviction, including a transcript of the testimony therein, may be received in evidence.

(g) The Supreme Court shall prescribe rules for the practice and procedure in proceedings had pursuant to this section and Section 6101.

(h) The other provisions of this article providing a procedure for the disbarment or suspension of an attorney do not apply to proceedings pursuant to this section and Section 6101, unless expressly made applicable.

SEC. 16. Section 6180 of the Business and Professions Code is amended to read:

6180. When an attorney engaged in law practice in this state dies, resigns, becomes an inactive member of the State Bar, is disbarred, or is suspended from the active practice of law and is required by the order of suspension to give notice of the suspension, notice of

cessation of law practice shall be given and the courts of this state shall have jurisdiction, as provided in this article.

SEC. 17. Section 6180.2 of the Business and Professions Code is amended to read:

6180.2. Notwithstanding the giving of notice pursuant to Section 6180.1, the superior court on its own motion, or a client of the attorney, the State Bar, or an interested person or entity may make application to the superior court for the county where the attorney maintains or more recently has maintained his or her principal office for the practice of law or where he or she resides, for assumption by the court of jurisdiction over the law practice to the extent provided in this article.

SEC. 18. Section 6180.3 of the Business and Professions Code is amended to read:

6180.3. The application shall be verified, and shall state facts supporting the occurrence of one or more of the events stated in Section 6180 and either of the following:

(a) Belief that supervision of the court is warranted because the attorney has left an unfinished client matter for which no other active member of the State Bar has, with the consent of the client, agreed to assume responsibility.

(b) Belief that the interests of one or more clients of the attorney or of one or more other interested persons or entities will be prejudiced if the proceeding herein provided is not maintained.

SEC. 19. Section 6180.5 of the Business and Professions Code is amended to read:

6180.5. If the court finds that one or more of the events stated in Section 6180 has occurred, and (a) that supervision of the courts is warranted because the affected attorney has left an unfinished client matter for which no other active member of the State Bar has with consent of the client agreed to assume responsibility or (b) that the interest of one or more of the clients of the attorney or one or more other interested persons or entities will be prejudiced if the proceeding herein provided is not maintained, it may make an order assuming jurisdiction over the attorney's practice pursuant to this article. If the person to whom the order to show cause is directed does not appear the court may make its order upon the verified application or such proof as it may require. Thereupon the court shall appoint one or more active members of the State Bar to act under its direction and may order such appointed attorneys to do one or more of the following:

(1) Examine the files and records of the law practice, and obtain information as to any pending matters which may require attention.

(2) Notify persons and entities who appear to be clients of the attorney of the occurrence of the event or events stated in Section 6180 and inform them that it may be to their best interest to obtain other legal counsel.

(3) Apply for an extension of time pending employment of such other counsel by the client.

(4) With the consent of the client, file notices, motions and pleadings on behalf of the client where jurisdictional time limits are involved and other legal counsel has not yet been obtained.

(5) Give notice to appropriate persons and entities who may be affected, other than clients, of the occurrence of such event or events.

(6) Arrange for the surrender or delivery of clients' papers or property.

(7) Do such other acts as the court may direct to carry out the purposes of this article.

The court shall have jurisdiction over the files and records and law practice of the affected attorney for the limited purposes of this section, and may make all orders necessary or appropriate to exercise this jurisdiction.

SEC. 20. Section 6180.11 of the Business and Professions Code is amended to read:

6180.11. No person or entity shall incur any liability by reason of the institution or maintenance of the proceeding. No person shall incur any liability for any act done or omitted to be done pursuant to order of the court under this article. No person or entity shall be liable for failure to apply for court jurisdiction under this article. Nothing in this section shall affect any obligation otherwise existing between the affected attorney and any other person or entity.

CHAPTER 454

An act to amend Section 98.1 of the Labor Code, relating to employment.

[Approved by Governor August 31, 1985 Filed with Secretary of State September 3, 1985]

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

SECTION 1. Section 98.1 of the Labor Code is amended to read:

98.1 (a) Within 15 days after the hearing is concluded, the Labor Commissioner shall file in the office of the division a copy of the order, decision, or award. The order, decision, or award shall include a summary of the hearing and the reasons for the decision. Upon filing of the order, decision, or award, the Labor Commissioner shall serve a copy of the decision personally or by certified mail on the parties. The notice shall also advise the parties of their right to appeal the decision or award and further advise the parties that failure to do so within the period prescribed by this chapter shall result in the decision or award becoming final and enforceable as a judgment by the appropriate municipal or superior court, in accordance with the appropriate rules of jurisdiction.

(b) For the purpose of this section, an award shall include any

sums found owing, damages proved, and any penalties awarded pursuant to the provisions of this code.

(c) All awards granted pursuant to a hearing under this chapter shall accrue interest on all due and unpaid wages at the adjusted annual rate established pursuant to Section 19269 of the Revenue and Taxation Code. The interest shall run until the wages are paid from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2.

CHAPTER 455

An act to amend Sections 4 and 8 of the Lower San Joaquin Levee District Act (Chapter 1075 of the Statutes of 1955), relating to the Lower San Joaquin Levee District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1985 Filed with Secretary of State September 3, 1985]

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

SECTION 1. Section 4 of the Lower San Joaquin Levee District Act (Chapter 1075 of the Statutes of 1955) is amended to read:

Sec. 4. The district shall consist of all the territory lying within the following described exterior boundaries:

Beginning at the county line between Stanislaus and Merced Counties at the mouth of the Merced River; thence easterly along the Merced River through Sections 10 and 3, Township 7 South, Range 9 East, to River Road; thence easterly along River Road to a point on the projection of the southwesterly toe of the North San Joaquin River Levee; thence along said North San Joaquin River Levee toe southeasterly through Sections 2, 10, 11, 12, 13 and 24, Township 7 South, Range 9 East, Sections 24, 19, 20 and 29, Township 7 South, Range 10 East to a point on the west line of Section 28, Township 7 South, Range 10 East; thence south along said line to a point on the southwesterly boundary of Swamp and Overflow Survey 127; thence easterly along the southwesterly boundary of said Swamp and Overflow Survey 127 to a point on the east line of the west half (W½) of the west half (W½) of said Section 28, Township 7 South, Range 10 East; thence south along the east line of the west half (W½) of the west half (W½) of said Section 28; thence south along the east line of the west half (W½) of the northwest quarter (NW¼) of Section 33, Township 7 South, Range 10 East, to the southeast corner of the west half (W½) of the northwest quarter (NW¼) of said Section 33; thence east along the north line of the south half (S½) of said Section 33 to a point being the northeast corner of the west half of the southeast quarter of said Section 33; thence south along the east line of the west half (W½) of the southeast quarter (SE¼) of said Section

33 to a point on the centerline of the east branch of Salt Slough; thence southeasterly along said centerline through Section 33, Township 7 South, Range 10 East, Sections 4 and 3, Township 8 South, Range 10 East, to a point on the south line of said Section 3; thence west along the south line of said Section 3 to the southwest corner thereof and the northeast corner of Section 9; thence south along the east line of said Section 9, to the corner common to said Sections 9, 10, 15 and 16, thence east along the north line of said Section 15 to a point which is west 1305.53 feet from the north quarter corner thereof; thence along a line that bears south 64° 07' 30" West to a point on the west line of said Section 15; thence south along the west line of said Section 15 to the section corner common to Sections 15, 16, 21 and 22; thence south along the east line of said Section 21 to the east side of San Luis Canal; thence southeasterly along east side of said San Luis Canal 9.3 miles to the San Pedro Grade Road at the north line of Section 1, Township 10 South, Range 10 East; thence east along said road and along the line between Township 9 South, and Township 10 South, 6.25 miles to Turner Island Road; thence south along Turner Island Road 3 miles to State Highway No. 152 at the south line of Section 18, Township 10 South, Range 12 East; thence east along said State Highway No. 152, 3 miles to the northwest corner, Section 22, Township 10 South, Range 12 East; thence south ¾ mile, more or less, to the north boundary of the Dos Palos Drainage District at Arroyo Canal; thence along the Arroyo Canal and said boundary easterly and southerly to the west line of Section 26, Township 10 South, Range 12 East; thence continuing along said boundary south 0.6 mile along said west line to the Colony Main Canal; thence southerly along said drainage district boundary and Colony Main Canal to the south line of Section 35, Township 10 South, Range 12 East; thence continuing along said boundary east ½ mile to the northwest corner of Section 1, Township 11 South, Range 12 East; thence along said boundary south 1 mile to the southwest corner of said Section 1; thence continuing along said boundary east 0.85 mile to the boundary line between Merced and Fresno Counties and a total distance of 1 mile to the southeast corner of said Section 1; thence south along the range line between Township 11 South, Range 12 East, and Township 11 South, Range 13 East 4.25 miles to the intersection of the easterly line of the right of way of the Southern Pacific Railroad and the west line of Section 8, Township 11 South, Range 13 East; thence southeasterly along said east line of railroad 11.5 miles to the easterly right-of-way line of the U.S.B.R. Delta Mendota Canal; thence southeasterly 6 miles to the intersection of said easterly right-of-way line with the west line of the east ½ of southeast ¼ of Section 19, Township 13 South, Range 15 East; thence south 0.7 mile to the southwest corner of east ½ of northeast ¼ of Section 30, Township 13 South, Range 15 East; thence east ¼ mile to quarter section corner on east line of said Section 30; thence south along the east line of Sections 30 and 31, Township 13 South, Range 15 East, and the east line of Section 6, Township 14

South, Range 15 East, to the northeasterly right-of-way of the Southern Pacific Railroad; thence southeasterly along said railroad right-of-way 2 miles to White's Bridge Road; thence east along White's Bridge Road 7¼ miles to the southeast corner of Section 3, Township 14 South, Range 16 East; thence north one mile to the southeast corner of Section 34, Township 13 South, Range 16 East; thence east 3 miles to the southeast corner of Section 31, Township 13 South, Range 17 East; thence north 3 miles to the northeast corner of Section 19, Township 13 South, Range 17 East; thence east 2 miles to the southeast corner of Section 16, Township 13 South, Range 17 East; thence north 1½ miles to the San Joaquin River and county line between Fresno and Madera Counties; thence along said county line downstream 1½ miles to the north line of Section 17, Township 13 South, Range 17 East; thence west 7½ miles to the northwest corner of Section 18, Township 13 South, Range 16 East; thence north 2 miles to the northeast corner of Section 1, Township 13 South, Range 15 East; thence west 0.8 mile to the southeast corner of Section 35, Township 12 South, Range 15 East; thence north 3 miles to the northeast corner of Section 23, Township 12 South, Range 15 East; thence west 1.65 miles to the intersection of the north line of Section 22, Township 12 South, Range 15 East, with Chowchilla Canal; thence northwesterly along Chowchilla Canal 15 miles to the north line of Section 21, Township 10 South, Range 14 East; thence west 1½ miles to the northwest corner of Section 20; thence north one mile to the northeast corner of Section 18; thence west 1 mile to the southeast corner of Section 12, Township 10 South, Range 13 East; thence north one mile to the northeast corner of Section 12 and the county line between Madera and Merced counties; thence north 2 miles to the northeast corner of Section 36, Township 9 South, Range 13 East; thence west 3 miles to the southeast corner of Section 28; thence north 4 miles to the northeast corner of Section 9; thence west 3 miles to the northwest corner of Section 7; thence north 1 mile to the northeast corner of Section 1, Township 9 South, Range 12 East; thence west 1.9 miles to the southeast corner of Section 34, Township 8 South, Range 12 East; thence north 1½ miles to the northeast corner of the southeast quarter of Section 27; thence west 1 mile; thence north ½ mile to the northeast corner of Section 28; thence west ½ mile; thence north one mile; thence west 1½ miles to the northwest corner of Section 20; thence north 1 mile to the northeast corner of Section 18, Township 8 South, Range 12 East; thence west 1 mile to the southeast corner of Section 12, Township 8 South, Range 11 East; thence north 1 mile to the northeast corner of Section 12; thence west two miles to the northwest corner of Section 11; thence north 1 mile to the northeast corner of Section 3, Township 8 South, Range 11 East; thence west 2 miles to the southeast corner of Section 32, Township 7 North, Range 11 East; thence north 1 mile; thence west 2 miles to the northwest corner of Section 31; thence north 1 mile; thence west 1 mile to the northwest corner of Section 25, Township 7 South, Range 10 East; thence north ¾ mile to State

Highway No. 140 at the intersection of said highway with the east line of Section 23; west 2 miles along said highway to the east line of Section 21; thence north ½ mile; thence west 2 miles to the east line of Section 18; thence north 1 mile; thence west 1 mile to the northwest corner of the southwest quarter of the southwest quarter of Section 7, Township 7 South, Range 10 East; thence north along the east line of Sections 12 and 1, Township 7 South, Range 9 East, 1½ miles to Merced River; thence downstream along said river to the San Joaquin River and the county line between Merced and Stanislaus Counties and the point of beginning.

SEC. 2. Section 8 of the Lower San Joaquin Levee District Act (Chapter 1075 of the Statutes of 1955) is amended to read:

Sec. 8. (a) Annually, on or before the first day of June, the board shall cause to be prepared an estimate of the total amount of money necessary to be raised by assessment for all district purposes during the next ensuing fiscal year, including any expenditures necessary in connection with or resulting from the assurances and local cooperation described in Section 7 of this act. The board shall add thereto an amount equal to 10 percent thereof for anticipated tax delinquencies. The board shall apportion that total amount of money among the counties of the district equitably in the same proportion as the acreage of lands of the district in each county bears to the total acreage of the lands in the district or in the same proportion as the value of lands, exclusive of improvements, of the district in each county bears to the total value of lands, exclusive of improvements, in the district as determined by the board. The amount as apportioned to each county shall be by resolution of the board, and a certified copy of the resolution shall be transmitted to the boards of supervisors of each of the counties of the district. The board of supervisors shall cause the assessments to be levied on the lands of the district within their respective counties, exclusive of improvements thereon, in proportion to the value thereof sufficient to raise the amounts so apportioned to their respective counties. The assessments shall be collected at the same time, in the same manner, and together with county taxes. Upon collection, all officers of the counties collecting or having in their possession funds derived from the assessments shall immediately transmit the funds to the County Treasurer of Merced County for the credit of the district.

(b) (1) In lieu of any other assessment provided by law, the board may elect to require that a benefit assessment be levied in the manner set forth in this subdivision, which assessment shall be sufficient to raise the amount or amounts certified by the board as required by the district for the district operations during the coming fiscal year. The Legislature hereby finds and declares that a fair and proper benefit assessment for flood control purposes may be levied on the basis of the use to which benefited land in the district may be put.

(2) The assessment authorized to be levied on each parcel under this subdivision shall be based upon the parcel's proportionate

benefit expressed as a product of the degree of protection it receives as determined from its size, and its capacity for being put to use, with respect to all of the parcels in the district. A parcel's benefit product shall equal the acreage of the parcel multiplied by the parcel's land use factor, as specified in paragraph (3). Any parcel less than ⅓ acre in size shall be deemed to be ⅓ acre.

(3) Each county shall assign each parcel to one of the following land use categories based upon the current land use of the parcel as shown on the records of its county assessor:

CATEGORY	LAND USE FACTOR
(A) Waste or Unuseable Land	0
(B) Agricultural-Grazing	1
(C) Agricultural-Other	2
(D) Single-family Residential	5
(E) Commercial, Industrial and Other	10

(4) Prior to April 1 of any year, landowners in the district may petition the board, or the board of supervisors of any county may request the board, to review the land use categories and land use factors set forth in paragraph (3), or the board may elect to do so on its own motion. Any landowner petition shall be signed by at least 50 landowners within the district. The board shall set a time and place for a hearing upon the petition or request, or upon its own motion, and shall give notice of the hearing in the manner set forth in Section 6066 of the Government Code. At the hearing, the board shall hear all evidence presented regarding the land use factors and categories and shall determine whether the categories or land use factors assigned to each category should be altered, expanded, or modified in any respect. The board may, by resolution at the conclusion of the hearing, modify the categories and factors as, in its judgment, is required for fair and practical special benefit assessments for the maintenance of the district works.

Notwithstanding any other provision, the board, at any hearing held pursuant to this paragraph during the 1985 calendar year, may order reductions or cancellations of any assessment wrongfully levied pursuant to this section during the 1984–85 fiscal year, and the district treasurer shall refund any assessments wrongfully paid in accordance with any such order of the board. The Legislature hereby finds and declares that this paragraph is necessary because of confusion which occurred in the levy of the assessment during the 1984–85 fiscal year, the first levy of the assessment following the amendment of this section at the 1983–84 Regular Session of the Legislature.

(5) The amount assessed to each parcel in the district in each county under this subdivision shall be determined by the following formula: The benefit product of the parcel multiplied by the total amount to be collected in the county, divided by the sum of the

various benefit products of all parcels in the county which are in the district.

(6) The board may elect to have its assessments collected by the county officers of the Counties of Merced, Madera, and Fresno with regard to the portions of the district located within those respective counties and may have its taxes collected by the county officials of the counties if the board declares its election by resolution and files a certified copy of the resolution with the auditors of those counties on or before the first day of August. Thereafter, each year, until otherwise provided by the board, all assessments shall be made and collected for the district by the county assessors and tax collectors respectively of those counties. In that case, the auditor of each county shall, on or before the second Monday of August of each year, transmit to the board a statement, in writing, showing the sum of the various benefit products of all parcels in the county which are in the district, and the board shall, on or before the first weekday in September or, if that weekday falls on a holiday, on the first business day thereafter, determine the portion of the tax to be collected by each county and shall immediately thereafter transmit to the county auditors a statement of the amount of assessment to be collected by each county. Upon collection, all officers of the counties collecting or having in their possession funds derived from the assessments shall immediately transmit the funds to the County Treasurer of Merced County for the credit of the district.

(7) Each county may recover the reasonable costs of its services in preparing and levying the assessments. Each county auditor shall submit an estimate, not later than the first day of August each year, which estimates shall then be included as a part of the board's determination of costs set forth hereinabove.

(8) There shall be no allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code to the district if the district utilizes the provisions of this subdivision. If the district utilizes the provisions of this subdivision, the district shall notify the county auditor pursuant to Section 100 of the Revenue and Taxation Code that the district does not desire to receive a property tax allocation.

(c) Whenever any land and improvements situated in the district have been sold for taxes and have been redeemed, the money paid for that redemption shall be apportioned and paid by the appropriate county treasurer to the district in the proportion which the tax due to the district bears to the total tax for which the land and improvements were sold.

(d) All taxes levied under the provisions of this act are a lien upon the land and improvements on which they are levied and, unless the board has by resolution otherwise provided, the enforcement of the collection of those taxes shall in the same manner and by the same means as provided by law for the enforcement of liens for state and county taxes. All provisions of the law relating to the enforcement of county taxes are made a part of this act.

(e) Whenever in this act the word "tax" is used, the word shall not be deemed or construed as referring to a tax in the technical sense of that term, but shall be deemed only to refer to assessments as are provided for by this act.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit the levy of equitable benefit assessments by the Lower San Joaquin Levee District to finance necessary flood control activities of the district at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 456

An act to add Article 2 (commencing with Section 11965) to Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code, relating to drug abuse prevention, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1985 Filed with Secretary of State September 3, 1985]

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

SECTION 1. Article 2 (commencing with Section 11965) is added to Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code, to read:

Article 2. The School-Community Primary Prevention Program

11965. The Legislature makes the following findings and declarations of intent:

(a) A statewide drug abuse primary prevention program is essential in order to address the continuing problem of drug abuse throughout the state, which often exists in combination with other problems such as crime and juvenile delinquency. The program is labeled as "primary" prevention because it is intended to prevent drug abuse before it begins or before it has reached later stages requiring treatment.

(b) The program necessarily emphasizes a continuing partnership between education agencies, drug abuse agencies, community service agencies, parents, and other members of the community. In order to facilitate this partnership, the Legislature finds and declares that it is of vital importance that fiscal and management responsibilities for the program be shared equitably by education and drug agencies at both the state and county levels, and that this cooperation is a major tool in efforts to achieve the

successful prevention of drug abuse.

(c) The program established pursuant to this article is intended by the Legislature to delegate primary responsibility for program planning to local school and local drug abuse authorities and their constituents. These agencies are best suited for dealing with lifetime drug using patterns, which are formed during youth and in the family setting

(d) This article places primary emphasis on youth, families, and communitywide drug abuse prevention planning. Therefore, programs to acquaint professionals serving youth and families, community representatives, parents, and youth with the skills and strategies needed for program implementation is an important aspect of the total program.

11965.3. In view of the purposes and intent of this article as expressed in Section 11965, highest priority for program funding under this article shall be designated to programs which emphasize joint school-community program drug abuse prevention planning and implementation, and which focus on children, youth, and families.

It is the intent of the Legislature that, to the maximum extent possible, funds made available for the purposes of this article be used to support programs which will meet the needs of children and families.

11965.5. This article shall affect only those counties in which the board of supervisors and the county board of education have each adopted a resolution electing to apply for available funds and have been awarded funds pursuant to Section 11966. Programs funded, planned, and implemented under this article shall emphasize a joint school-community primary prevention program, which may include:

(a) School and classroom-oriented programs, including, but not limited to, programs designed to encourage sound decisionmaking, an awareness of values, an awareness of drugs and their effects, enhanced self-esteem, social and practical skills that will assist students toward maturity, enhanced or improved school climate and relationships among all school personnel and students, furtherance of cooperative efforts of school- and community-based personnel.

(b) School- or community-based nonclassroom alternative programs, or both, including, but not limited to, positive peer group programs, programs involving youth and adults in constructive activities designed as alternatives to drug use, and programs for special target groups, such as women, ethnic minorities, and other high-risk, high-need populations.

(c) Family-oriented programs, including, but not limited to, programs aimed at improving family relationships and involving parents constructively in the education and nurturing of their children, as well as in specific activities aimed at preventing drug abuse.

11965.7. In those counties electing to apply for funds under this article, both the county administrator and the county office of

education shall designate units with primary responsibility for planning and administering the School-Community Primary Prevention Program. These units shall work together on a cooperative basis to review the school and community program application for funds. The joint application of the county administrator and the county office of education shall be submitted to the local primary prevention advisory committee, as established pursuant to subdivision (b) of Section 11966, for review and comment. After this review, the application shall be submitted to the state. Applications for funding shall be reviewed by an external review selection committee. This committee shall be comprised of no less than six members, three being appointed by the State Department of Education and three being appointed by the State Department of Alcohol and Drug Programs. The committee shall review applications and make recommendations for grant awards. The State Department of Alcohol and Drug Programs and the State Department of Education shall enter into an interagency agreement in order to carry out the provisions of this chapter. Approval of both state departments is required for funding.

11966. The planning process at the county level shall include all of the following, which shall be incorporated into each local school-community primary drug abuse prevention plan submitted to the State Department of Education and the State Department of Alcohol and Drug Programs:

(a) A copy of the resolutions of the board of supervisors and the county board of education electing to apply for funding under this article, and documentation of public notice as required by Section 11967.

(b) Incorporation of comments on program plans provided by the local primary prevention advisory committee. This committee may be the existing drug abuse advisory board unless the county board of supervisors and the county board of education have each adopted a resolution requiring the formation of an independent committee Independent committees so established shall consist of 10 members, five members being appointed by the board of supervisors and five by the county board of education.

(c) Certification by the county drug program administrator and the county office of education of each others plans, emphasizing public notice and nonduplication of programming, especially with respect to nonduplication of the drug program application and of any services provided pursuant to Section 51260 of the Education Code.

(d) Submission of the application as required under Section 11965.7.

(e) Evidence that there has been coordination with existing successful programs in the development of the county plans, and assurance of maintenance of current efforts in order to preclude the use of funds to support existing programs.

(f) Provision for no more than 5 percent of the county level program funds being used for program administration, and

specification of measurable goals and objectives for each program to be funded pursuant to the application.

(g) Evidence that any program funded for two years or more under this article has substantially achieved its measurable goals and objectives as specified in the approved application. The county agencies allocating funds to individual applicants or programs pursuant to the county application shall have responsibility to institute monitoring systems to insure compliance with this requirement.

(h) In counties in which the board of education is appointed by the board of supervisors, the board of supervisors shall have final authority for application, planning, and implementation of programs funded under this article.

11966.5. The application from each county shall be submitted, with appropriate documentation as provided in Section 11966, on or before the existing deadline for the county drug program plan.

11967. Upon receiving letters from the State Department of Education and the State Department of Alcohol and Drug Programs, respectively, specifying the eligible county allocation, as required under subdivision (c) of Section 11967.5, both the county drug program administrator and the county office of education shall announce the availability of funds locally under the School-Community Primary Prevention Program pursuant to Section 6061.3 of the Government Code, and shall also disseminate such information to the public media, to school districts within the county, and to community nonprofit organizations providing preventive services to youth. The public notice shall specify the nature and content of the program as provided in this article, and shall inform agencies and organizations concerning the details of applying for funds.

11967.5. Funds provided for purposes of this article shall be administered and allocated as follows:

(a) One-half of the total funds available shall be administered by the State Department of Education through an interagency agreement with the State Department of Alcohol and Drug Programs. The other half shall be administered by the State Department of Alcohol and Drug Programs.

(b) No more than 5 percent of the total amount for each state department shall be used for administrative costs. The maximum amount shall be inclusive of administrative costs at the state level. An appropriate portion of such maximum amount shall be used by the state departments to work together on a cooperative basis to jointly develop program application guidelines. Both departments shall jointly develop program application guidelines that are consistent with the legislative intent prescribed in Section 11965.7.

(c) The balance of program funds provided under this article shall be allocated to programs on a competitive basis.

11968. Upon completion of the review process and selection of grant awards, the state agencies shall negotiate contracts with public

agencies to carry out primary prevention programs. These shall include county drug offices and offices of education which meet the requirements of Section 11965.

11969. The county drug program administrator and the county office of education may enter into interagency agreements between themselves which will allow any of the management or fiscal tasks, or both, created pursuant to this article and assigned to both the county office and the drug program administrator to be performed by only one of them.

11969.5. The State Department of Education and the State Department of Alcohol and Drug Programs shall establish mutually cooperative arrangements for sharing reports on the implementation of this article.

SEC. 2. The Legislative Analyst shall report on the implementation of the School-Community Primary Prevention Program established pursuant to Article 2 (commencing with Section 11965) of Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code in the Analysis of the 1987–88 Budget Bill. This report shall include the findings, comments, and recommendations as the Legislative Analyst determines are appropriate.

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

In order to insure that the School-Community Primary Prevention Program continues into the 1985–86 fiscal year and beyond, it is necessary that this act take effect immediately.

CHAPTER 457

An act to amend Sections 12085, 12086, 12088, 12089, 12090, 12091, 12092, and 12730 of, and to add Section 12085.5 to, the Government Code, relating to economic opportunity.

[Approved by Governor August 31, 1985 Filed with Secretary of State September 3, 1985]

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

SECTION 1. Section 12085 of the Government Code is amended to read:

12085. Although the economic well-being of the state has progressed to a level surpassing that of any other achieved in world history, and although these benefits are widely shared throughout the state, poverty continues to be the lot of a substantial number of citizens of the state. California can achieve its full economic and social potential as a state only if every individual has the opportunity to contribute the full extent of his or her capabilities and to

participate in the workings of society. The Legislature hereby declares that it is the policy of the state to eliminate poverty by providing everyone with the opportunity for education, training, work, and the opportunity to live with dignity and decency. The Legislature finds that it is the purpose of this article to strengthen, supplement, and coordinate efforts to further this policy.

In order to employ the resources of both the public and private sectors of the state, and to effectuate the purposes of this article, there is in state government, a Department of Economic Opportunity.

SEC. 2. Section 12085.5 is added to the Government Code, to read:

12085.5. Any reference in any provision of law to the State Office of Economic Opportunity shall be deemed to refer to the Department of Economic Opportunity.

SEC. 3. Section 12086 of the Government Code is amended to read:

12086. The department is under the direction of an executive officer known as the Director of the Department of Economic Opportunity. The director shall be appointed by the Governor subject to the confirmation of the Senate, and shall hold office at the pleasure of the Governor. The director shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2. The chief deputy director shall be appointed by the Governor and shall hold office at the pleasure of the Governor. The Governor also may appoint, to serve at his pleasure, one deputy director for the department.

Subject to the State Civil Service Act, the director shall appoint such other employees as are necessary for the administration and the affairs of the department, and shall prescribe their duties.

SEC. 4. Section 12088 of the Government Code is amended to read:

12088. The State Office of Economic Opportunity is hereby transferred from the Governor's office, and is hereby created as a separate independent entity in state government which shall be called the Department of Economic Opportunity. The functions, authorities, and responsibilities of the Governor's office with regard to the State Office of Economic Opportunity are transferred to the Department of Economic Opportunity. All functions, authorities, and responsibilities of the Director of the State Office of Economic Opportunity in the Governor's office with regard to the functions of the State Office of Economic Opportunity are transferred to the Director of the Department of Economic Opportunity.

SEC. 5. Section 12089 of the Government Code is amended to read:

12089. The staff of the Department of Economic Opportunity shall prepare, on behalf of the commission, an annual report regarding the status of poverty in the state and recommend solutions and resources needed to alleviate poverty in the state. In order to

provide for an orderly transition and to ensure the continued provision of mandated departmental services to the low-income population of the state, the State Personnel Board shall authorize temporary appointment authority under Section 5 of Article VII of the California Constitution and Section 19059, and shall conduct examinations necessary to accomplish the prompt filling of employee positions in the Department of Economic Opportunity. All persons employed by the Office of Economic Opportunity on January 1, 1986, may participate in departmental promotional examinations for the Department of Economic Opportunity for a period of one year. The Department of Personnel Administration shall assist the Department of Economic Opportunity in the transition to civil service, as necessary.

SEC. 6. Section 12090 of the Government Code is amended to read:

12090. The Department of Economic Opportunity shall have possession and control of all records, papers, offices, equipment, supplies, land, and other property real or personal held for the benefit or use of the State Office of Economic Opportunity in the Governor's office.

SEC. 7. Section 12091 of the Government Code is amended to read:

12091. All unexpended balances of appropriations and other funds available to the State Office of Economic Opportunity in the Governor's office shall be transferred to the Department of Economic Opportunity. All funds so transferred shall be for the use and for the purpose for which the appropriation or other funds were originally made available.

SEC. 8. Section 12092 of the Government Code is amended to read:

12092. There is in state government a Department of Economic Opportunity Advisory Commission, which consists of 11 members. Two shall be appointed by the Rules Committee of the Senate, two shall be appointed by the Speaker of the Assembly, and seven shall be appointed by the Governor. Of the Governor's seven appointments, one shall be a representative of organized labor, one shall be a representative of the business community, one shall be a member of the State Community Action Association, one shall be a low-income person from northern California, one from central California, and two from southern California. The term of each member shall be four years. The commission shall advise the director on program development, establishment of goals, and priorities in combating poverty. It shall also review departmental performance and make recommendations to the director and the Governor for improvement. The director shall serve as executive secretary to the commission, and shall provide such staff and resources as he or she deems essential.

SEC. 9. Section 12730 of the Government Code is amended to read:

12730. For the purposes of this chapter:

(a) "Director" means the Director of the Department of Economic Opportunity.

(b) "Community action agency" means a private nonprofit organization or a public agency which is designated by a political subdivision to serve as that community's antipoverty agency. Community action agencies shall meet structural and functional requirements set forth in Article 6 (commencing with Section 12750).

(c) "Delegate agency" means a private nonprofit organization or public agency which operates one or more projects funded under this chapter pursuant to a contractual agreement with an eligible grantee.

(d) "Designation" means the formal selection of a proposed community action agency by a political subdivision or the director, as provided in Section 12750.

(e) "Eligible entity" means all of the following:

(1) Any organization which was officially designated as a community action agency under the provisions of Section 210 of the Economic Opportunity Act of 1964 during fiscal year 1981, unless such community action agency lost its designation under Section 210 of that act; or unless the community action agency has had its designation revoked pursuant to subdivision (e) of Section 12850.

(2) Any organization which is designated and recognized as a community action agency after October 1, 1982, pursuant to Article 6 (commencing with Section 12750).

(3) Any Indian tribe or organization meeting the eligibility standards set forth in Article 8 (commencing with Section 12770).

(4) Any migrant and seasonal farmworker organization meeting the eligibility standards set forth in Article 7 (commencing with Section 12765).

(5) Any limited purpose agency which is approved for funding pursuant to the requirements of Article 9 (commencing with Section 12775).

(6) For the purposes of Article 6 (commencing with Section 12750), a limited purpose agency which was designated as, and met the structural requirements of, a community action agency, and which received funds pursuant to Section 221 of the federal Economic Opportunity Act of 1964 during the 1981 federal fiscal year to serve as a community action agency in an uncapped county or multicounty area.

(f) "Eligible beneficiaries" means all of the following:

(1) All individuals living in households whose income is at or below the official poverty line as defined by the United States Office of Management and Budget.

(2) All individuals eligible to receive aid to families with dependent children (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) or federal supplemental security income benefits (Title XVI, Social Security

Act).

(3) Residents of a target area having a measurably high incidence of poverty and which is the specific focus of a project financed under this chapter.

However, for the purpose of calculating the set-asides required under subdivisions (a) and (b) of Section 12785, only eligible beneficiaries under paragraph (1) shall be counted.

(g) "Financial assistance" means money provided to an eligible entity, pursuant to a cosigned, written statement of grant action, in order to enable the grantee to accomplish its planned and approved work program.

(h) "Limited-purpose agency" means a private nonprofit organization or public agency, other than those eligible under Article 6 (commencing with Section 12750), 7 (commencing with Section 12765), or 8 (commencing with Section 12770), which meets the administrative and fiscal requirements of this chapter, and which has a demonstrated capacity to provide training, technical assistance, statewide special support, or other activities which serve the state's low-income population.

(i) "Department" means the Department of Economic Opportunity as constituted pursuant to Article 8 (commencing with Section 12085) of Chapter 1.

(j) "Political subdivision" shall generally be deemed to mean county government, with the following exceptions:

(1) In any county which prior to October 1, 1981, had more than one designated community action agency, each unit of local government which contained a designated community action agency shall continue to operate as a "political subdivision" under this chapter.

(2) Any county having fewer than 50,000 population according to the 1980 census may be deemed by the department to be part of a larger "political subdivision" comprising two or more counties if the department determines that to do so would but serve the purposes of this chapter, and may participate in the designation process for a multicounty community action agency.

(k) "Recognition" means approval by the department of a community action agency to serve a particular community, such recognition to follow designation of that agency by one or more political subdivisions.

(*l*) "Secretary" means the Secretary of the United States Department of Health and Human Services.

(m) "Special consideration," pursuant to the requirements of Public Law 97-35 Section 675(c)(4), means all of the following:

(1) That any community action agency which was receiving funds from the Community Services Administration on August 13, 1981, shall be formally recognized by the office no later than October 1, 1982.

(2) That no new or repeated designation shall be required of any political subdivision which had a designated community action

agency on August 13, 1981.

(3) That no community action agency shall be determined to be out of compliance with program or fiscal requirements established by the state until such requirements are published for review and comment and until, in the case of requirements differing from those of the now defunct federal Community Services Administration, community action agencies are afforded a reasonable opportunity to comply therewith.

(n) "Standards of effectiveness" are the general standards, derived from the purposes of this chapter, toward which all programs and projects funded under this chapter shall be directed and against which they will be assessed.

(o) "Statement of grant action" means the written document incorporating the terms and conditions under which the department agrees to provide financial assistance to a grantee. Upon its cosigning by authorized agents of the department and the grantee, and subsequent approval by the Department of General Services pursuant to Section 14780, a statement of grant action shall be deemed to constitute a valid, enforceable contract.

(p) "State plan" means the plan required to be submitted annually to the secretary to secure California's allotment of Community Services Block Grant funds, which shall be prepared and reviewed pursuant to the requirements of this chapter.

(q) "Uncapped area" means any county or portion thereof for which no community action agency has been designated and recognized.

CHAPTER 458

An act to amend Section 23358.3 of, and to add Section 25239 to, the Business and Professions Code, relating to alcoholic beverages, and making an appropriation therefor.

[Approved by Governor August 31, 1985 Filed with Secretary of State September 3, 1985]

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

SECTION 1. Section 23358.3 of the Business and Professions Code is amended to read:

23358.3. A wine grape grower's storage license authorizes the holder to store bulk wine, made from grapes produced by the holder, on the premises of a licensed winegrower and to sell that wine, within this state, to winegrowers, distilled spirits manufacturers, brandy manufacturers, wine blenders, and vinegar producers.

The annual fee for a wine grape grower's storage license is fifty-six dollars ($56).

SEC. 2. Section 25239 is added to the Business and Professions

Code, to read:

25239. Every person who, with intent to defraud, either falsely makes, alters, forges, or counterfeits the label for any wine or uses the label or bottle of any wine belonging to another, without his or her consent, is guilty of a misdemeanor.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 459

An act to amend Section 48980 of, and to add Article 10 (commencing with Section 32390) to Chapter 3 of Part 19 of, the Education Code, relating to kindergarten pupils, and making an appropriation therefor.

[Approved by Governor August 31, 1985 Filed with Secretary of State September 3, 1985]

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

SECTION 1. Article 10 (commencing with Section 32390) is added to Chapter 3 of Part 19 of the Education Code, to read:

Article 10. Fingerprinting

32390. (a) The governing board of any school district shall offer a fingerprint program for all children enrolled in kindergarten or newly enrolled in that district. The board may contract with any public or private agency, including any civic or community organization if determined to be appropriate by the board, to perform the fingerprinting. Prior to obtaining funds under this article, the board shall seek to obtain private funding and volunteer assistance in performing the fingerprinting and shall demonstrate this to the State Department of Education. The department shall adopt rules and regulations concerning obtaining private funding and volunteer assistance, and develop fingerprinting standards, as approved by the Department of Justice, to be followed in the fingerprinting of children pursuant to this article. At the end of each fiscal year, the board shall submit a claim for reimbursement to the Controller for the actual expenses incurred pursuant to this article.

(b) Each parent or guardian of a child shall be informed of the school fingerprinting program when he or she first enrolls the child in the public schools. At that time the parent shall declare, in writing, whether or not he or she wants the child to be fingerprinted in the

school program. The parent shall be informed in writing at the time of enrollment that he or she may reverse in writing his or her declaration on fingerprinting at any time. Children shall not be fingerprinted without parental consent.

(c) Any report or document containing fingerprints of a child which is made pursuant to this section shall be given to the parents or guardian of the child and shall not be given to, or retained by, the school district or any other private or public entity. The report or document containing the fingerprints may be given to the parents or guardian with the child's report card or any other document routinely mailed to parents or guardians, or may be given to parents or guardians in person at any conference with the child's teacher. To the maximum extent feasible, the report or document containing the fingerprints shall not be sent to the parents in a separate mailing.

(d) As used in this article, the governing board of a school district includes a county superintendent of schools.

SEC. 2. Section 48980 of the Education Code is amended to read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall notify the parent or guardian of its minor pupils regarding the right of the parent or guardian under Sections 32390, 46014, 48205, 49403, 49423, 49451, 49472, 51240, 51550, and Article 3 (commencing with Section 56030) of Chapter 1 of Part 30.

(b) The notification shall also advise the parent or guardian of the availability of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9.

SEC. 3. The sum of seven hundred thousand dollars ($700,000) is hereby appropriated from the General Fund to the State Mandates Claims Fund to reimburse local agencies and school districts pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state and incurred by them pursuant to this act.

SEC. 4. 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 460

An act to add Section 23428.27 to the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1985 Filed with Secretary of State September 3, 1985]

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

SECTION 1. Section 23428.27 is added to the Business and Professions Code, to read:

23428.27. For the purposes of this article, "club" also means any peace officers' and employees' association which is composed entirely of active and retired peace officers and employees of a law enforcement agency which holds regular meetings, is located in a county of the first class, and the members of which pay regular dues.

No license shall be issued pursuant to this section to any club which restricts membership or in any other way discriminates against any person in the use of any of its facilities because of that person's color, race, religion, ancestry, national origin, sex, or age.

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 alcoholic beverages may be served as soon as possible at facilities due to be completed in September 1985, which will be leased by a peace officers' and employees' association, it is necessary that this act go into immediate effect.

CHAPTER 461

An act to amend Section 6514.1 of the Health and Safety Code, relating to local government.

[Approved by Governor August 31, 1985 Filed with Secretary of State September 3, 1985]

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

SECTION 1. Section 6514.1 of the Health and Safety Code is amended to read:

6514.1. (a) A district may lease, for a term not exceeding 99 years, subject to periodic review, district property which will not be needed for the purposes of the district during the term of the lease as a means of providing revenues to the district for the operation and maintenance of sanitary sewer system and waste water treatment and disposal facilities of the district and to finance the acquisition, construction, and improvement of these facilities.

(b) Prior to entering into a lease, the board shall, except as otherwise provided in subdivision (e), publish notice pursuant to Section 6066 of the Government Code of the time and place of the meeting of the board at which the proposed lease will be considered, and at that time and place shall afford all persons present an opportunity to be heard with respect to the proposed lease.

(c) If the board finds that the subject property will not be needed

by the district and that it is in the best interests of the district and the users of its sanitary sewer system that the lease be entered into, it may, by ordinance setting forth the findings, authorize the lease. The ordinance shall be subject to the provisions of Article 2 (commencing with Section 5200) of Chapter 4 of Division 5 of the Elections Code.

(d) Every lease shall be awarded to the bidder which, in the determination of the legislative body, offers the greatest economic return to the district after competitive bidding conducted in the manner determined by the legislative body. Notice inviting bids may be published pursuant to Section 6066 in one or more newspapers of general circulation within the district.

(e) If the board makes a finding at a noticed public hearing that the subject property will be used for compatible uses, that it will be of public benefit, and that the term of the lease will not exceed 10 years, subdivisions (c) and (d) shall be optional.

CHAPTER 462

An act to amend Section 830.7 of the Penal Code, relating to peace officers

[Approved by Governor August 31, 1985 Filed with Secretary of State September 3, 1985]

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

SECTION 1. Section 830.7 of the Penal Code is amended to read:

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, if they receive a course in the exercise of those powers pursuant to Section 832:

(a) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(b) Persons regularly employed as security officers for institutions of higher education, recognized under subdivision (a) of Section 94310 of the Education Code, if the institution has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or chief of police within whose jurisdiction the institution lies.

(c) Persons regularly employed as security officers for health facilities defined in Section 1250 of the Health and Safety Code which are owned and operated by cities, counties, and cities and counties, if the facility has concluded a memorandum of understanding permitting the exercise of that authority with the sheriff or chief of police within whose jurisdictions the facility lies.

(d) Employees of the California Department of Forestry

designated by the Director of Forestry and approved by the Secretary of the Resources Agency.

(e) Employees of the Public Utilities Commission assigned to the Transportation Division, designated by the division director and approved by the commission, to the extent necessary to enforce the provisions of the Public Utilities Code.

CHAPTER 463

An act to amend Sections 669, 1170, and 1170.1 of, and to add Section 12022.4 to, the Penal Code, relating to firearms.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985.]

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

SECTION 1. Section 669 of the Penal Code is amended to read:

669. When any person is convicted of two or more crimes, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same judge or by different judges, the second or other subsequent judgment upon which sentence is ordered to be executed shall direct whether the terms of imprisonment or any of them to which he is sentenced shall run concurrently or consecutively; life sentences, whether with or without the possibility of parole, may be imposed to run consecutively with one another or with any other term of imprisonment for a felony conviction. Whenever a person is committed to prison on a life sentence which is ordered to run consecutive to any determinate term of imprisonment imposed pursuant to Sections 1170, 1170.1, 667.5, 12022, 12022.4, 12022.5, 12022.6, and 12022.7, the determinate term of imprisonment shall be served first and no part thereof shall be credited toward the person's eligibility for parole as calculated pursuant to Section 3046.

In the event that the court at the time of pronouncing the second or other judgment upon such person had no knowledge of a prior existing judgment or judgments, or having knowledge, fails to determine how the terms of imprisonment shall run in relation to each other, then, upon such failure so to determine, or upon such prior judgment or judgments being brought to the attention of the court at any time prior to the expiration of 60 days from and after the actual commencement of imprisonment upon the second or other subsequent judgments, the court shall, in the absence of the defendant and within 60 days of such notice, determine how the term of imprisonment upon said second or other subsequent judgment shall run with reference to the prior incompleted term or terms of imprisonment. Upon the failure of the court so to determine how the terms of imprisonment on the second or subsequent

judgment shall run, the term of imprisonment on the second or subsequent judgment shall run concurrently.

The Department of Corrections shall advise the court pronouncing the second or other subsequent judgment of the existence of all prior judgments against the defendant, the terms of imprisonment upon which have not been completely served.

SEC. 2. Section 1170 of the Penal Code is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of 16 months, two or three years; two, three, or four years; two, three, or five years; three, four, or five years; two, four, or six years; three, four, or six years; three, five, or seven years; three, six, or eight years; five, seven, or nine years; five, seven, or 11 years, or any other specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless such convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he had committed his crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term which it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law which imposes the death penalty, which authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence, including any period of parole under Section 3000, shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the Director of Corrections. However, any such sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the Director of Corrections.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition

of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment either party may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation or mitigation submitted by the prosecution or the defendant, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under Section 667.5, 1170.1, 12022, 12022.4, 12022.5, 12022.6, or 12022.7. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing The court shall also inform the defendant that as part of the sentence after expiration of the term he may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the Director of Corrections, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the Director of Corrections or the Board of Prison Terms, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) Any sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and any other applicable provisions of law.

(f) (1) Within one year after the commencement of the term of imprisonment, the Board of Prison Terms shall review the sentence to determine whether the sentence is disparate in comparison with the sentences imposed in similar cases. If the Board of Prison Terms determines that the sentence is disparate, the board shall notify the judge, the district attorney, the defense attorney, the defendant, and the Judicial Council. The notification shall include a statement of the reasons for finding the sentence disparate.

Within 120 days of receipt of this information, the sentencing court shall schedule a hearing and may recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if the defendant had not been sentenced

previously, provided the new sentence is no greater than the initial sentence. In resentencing under this subdivision the court shall apply the sentencing rules of the Judicial Council and shall consider the information provided by the Board of Prison Terms.

(2) The review under this section shall concern the decision to deny probation and the sentencing decisions enumerated in paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 1170.3 and apply the sentencing rules of the Judicial Council and the information regarding the sentences in this state of other persons convicted of similar crimes so as to eliminate disparity of sentences and to promote uniformity of sentencing.

(g) Prior to sentencing pursuant to this chapter, the court may request information from the Board of Prison Terms concerning the sentences in this state of other persons convicted of similar crimes under similar circumstances.

(h) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

SEC. 3. 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, 12022.4, 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, 12022.4, 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, 12022.4, 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, 12022.4, 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, 12022.4, 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, 12022.4, 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, 12022.4, 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, 12022.4, 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, 12022.4, 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. 3.5. 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 these 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, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, or 12022.9. 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, 12022.4, 12022.5, 12022.7, or 12022.9.

(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, 12022.4, 12022.5,, 12022.7, or 12022.9. 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 the 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 the convictions which the 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, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9, 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, 12022.4, 12022.5, 12022.7, and 12022.9 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, 12022.4, or 12022.5 and (2) an enhancement for great bodily injury as provided in Section 12022.7 or 12022.9.

(f) The enhancements provided in Sections 667.5, 667.6, 12022, 12022.1, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, and 12022.9 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, 12022.4, 12022.5, 12022.6, 12022.7, or 12022.9 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, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9 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 4. Section 12022.4 is added to the Penal Code, to read:

12022.4. Any person who, during the commission or attempted commission of a felony, furnishes or offers to furnish a firearm to another for the purpose of aiding, abetting, or enabling that person or any other person to commit a felony shall, in addition and consecutive to the punishment prescribed by the felony or attempted felony of which the person has been convicted, be punished by an additional term of two years in the state prison. The additional term provided in this section shall not be imposed unless the fact of the furnishing is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

SEC. 5 Section 3.5 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by both this bill and AB 1087. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1170.1 of the Penal Code, and (3) this bill is enacted after AB 1087, in which case Section 3 of this bill shall not become operative

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CHAPTER 464

An act to amend Section 11166.5 of the Penal Code, relating to child abuse reporting.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985]

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

SECTION 1. Section 11166.5 of the Penal Code is amended to read:

11166.5. (a) Any person who enters into employment on and after January 1, 1985, as a child care custodian, medical practitioner, or nonmedical practitioner, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers, administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; licensed day care workers; administrators of community care facilities licensed to care for children; headstart teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; and social workers or probation officers.

"Medical practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

"Nonmedical practitioner" includes state or county public health employees who treat minors for venereal disease or any other condition; coroners; paramedics; marriage, family or child counselors; and religious practitioners who diagnose, examine, or treat children.

The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

This subdivision is not applicable to persons employed by child

protective agencies as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties.

(b) On and after January 1, 1986, when a person is issued a state license or certificate to engage in a profession or occupation the members of which are required to make a report pursuant to Section 11166, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in Section 11166.5 to the person at the same time as it transmits the document indicating licensure or certification to the person. In addition to the requirements contained in Section 11166.5, the statement shall also indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars ($1,000) or by both.

(c) As an alternative to the procedure required by subdivision (b), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1986.

CHAPTER 465

An act to amend Sections 6011, 6015, 6021, 6024, 6163, 6169, 6170, and 6171 of, to add Sections 6161.1, and 6171.1 to, and to repeal Section 6164 of, the Business and Professions Code, relating to the State Bar of California.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985]

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

SECTION 1. Section 6011 of the Business and Professions Code is amended to read:

6011. The board consists of 22 members and the President of the State Bar.

SEC. 2. Section 6015 of the Business and Professions Code is amended to read:

6015. No person is eligible for attorney membership on the board unless he or she is an active member of the State Bar and unless he or she maintains his or her principal office for the practice of law within the State Bar district from which he or she is elected.

One member of the board from State Bar District 7 elected in 1939, and any successor to this member, at the time of his or her election shall, and any member from the district may, maintain his or her principal office for the practice of law outside of the City of Los Angeles.

SEC. 3. Section 6021 of the Business and Professions Code is amended to read:

6021. Within the period of 180 days next preceding the annual meeting, the board, at a meeting called for that purpose, shall elect the president, vice presidents and treasurer for the ensuing year. The president shall be elected from among those members of the board whose terms on the board expire that year, or if no such member is able and willing to serve, then from among the board members who have completed at least one or more years of their terms.

The other officers shall be elected from among the board members who have at least one or more years to complete their respective terms.

The newly elected president, vice presidents and treasurer shall assume the duties of their respective offices at the conclusion of the annual meeting following their election.

SEC. 4. Section 6024 of the Business and Professions Code is amended to read:

6024. The president shall preside at all meetings of the State Bar and of the board, and in the event of his or her absence or inability to act, one of the vice presidents shall preside.

Other duties of the president and the vice presidents, and the duties of the secretary and the treasurer, shall be such as the board may prescribe. The president may vote only in the case of a tie vote of the other members of the board present and voting.

SEC. 5. Section 6161.1 is added to the Business and Professions Code, to read:

6161.1. Each law corporation shall renew its certificate of registration annually at a time to be fixed by the State Bar and shall pay a fee therefor which shall be fixed by the State Bar in accordance with subdivision (a) of Section 6163.

SEC. 6. Section 6163 of the Business and Professions Code is amended to read:

6163. (a) Each law corporation shall file with the State Bar annually and at such other times as the State Bar may require a report containing such information pertaining to qualification and compliance with the statutes, rules, and regulations referred to in Section 6127.5 as the State Bar may determine. The fee for filing such a report shall be fixed by the State Bar. All reports shall be signed and verified by an officer of the corporation. The State Bar may fix a penalty for the late filing of an annual report in an amount not to exceed double the amount of the applicable filing fee and may also fix the date upon which the penalty shall attach if the report has not been filed and the fee paid prior to that date. The date upon which the penalty shall attach shall be not less than 31 days following the date fixed for filing the report. The filing of the annual report together with the filing fee and any penalty due for late filing constitutes the annual renewal of the certificate of registration. The fee fixed by the board for the filing of the annual report and any penalty due for late filing constitutes the fee required by Section 6161.1 for renewal of the certificate for the year in which the annual report is due to be filed.

(b) The certificate of registration of any law corporation failing to file the annual report, renew its certificate, and pay the fee therefor and any penalty due thereon for late filing, shall be suspended 60 days following written notice of delinquency. The written notice shall be mailed to the corporation at its current office or other address for State Bar purposes, as shown on the law corporation records of the State Bar. The suspension shall be ordered by the chief executive officer of the State Bar or his or her designee.

(c) A certificate of registration suspended pursuant to subdivision (b) may be reinstated upon the filing by the law corporation of all delinquent annual reports and payment of all accrued fees and penalties required by this section and Section 6161.1 which are due on the date of the suspension, and any such fees and penalties which become due on or before the date of the reinstatement.

SEC. 7. Section 6164 of the Business and Professions Code is repealed.

SEC. 8. Section 6169 of the Business and Professions Code is amended to read:

6169. (a) When there is reason to believe that a law corporation has violated or is about to violate any of the provisions of this article or the Professional Corporation Act or of any other pertinent statute, rule, or regulation, the State Bar may issue a notice directing the corporation to show cause why it should not be ordered to cease and desist from specified acts or conduct or its certificate of registration should not be suspended or revoked. A copy of the notice shall be served upon the corporation in the manner provided for service of summons upon a California corporation.

(b) A hearing upon the notice to show cause shall be held before a standing or special committee appointed by the board of governors. Upon the hearing, the State Bar and the corporation shall be entitled to the issue of subpoenas, to be represented by counsel, to present evidence, and examine and cross-examine witnesses.

(c) The hearing committee shall make findings in writing and shall either recommend that the proceeding be dismissed or that a cease and desist order be issued or that the certificate of registration of the corporation be suspended or revoked. The determination may be reviewed by the board of governors or by a committee authorized by the Board of Governors to act in its stead, upon written petition for review, filed with the State Bar by the corporation or the State Bar within 20 days after service of the findings and recommendation. Upon review, the board of governors or the committee may take additional evidence, may adopt new or amended findings, and make such order as may be just, as to the notice to show cause.

(d) Subdivisions (a), (b), and (c) shall not apply to the suspension or revocation of the certificate of registration of a corporation in either of the following cases:

(1) The death of a sole shareholder, as provided in Section 6171.1.

(2) Failure to file the annual report and renew the certificate of registration, as provided in Sections 6161.1 and 6163.

SEC. 9. Section 6170 of the Business and Professions Code is amended to read:

6170. Any action of the State Bar or the Board of Governors or a committee of the State Bar, or the chief executive officer of the State Bar or the designee of the the chief executive officer, provided for in this article, may be reviewed by the Supreme Court by petition for review pursuant to rules prescribed by the Supreme Court.

SEC. 10. Section 6171 of the Business and Professions Code is amended to read:

6171. With the approval of the Supreme Court, the State Bar may formulate and enforce rules and regulations to carry out the purposes and objectives of this article, including rules and regulations requiring all of the following:

(a) That the articles of incorporation or bylaws of a law corporation shall include a provision whereby the capital stock of the corporation owned by a disqualified person (as defined in the Professional Corporation Act) or a deceased person shall be sold to the corporation or to the remaining shareholders of the corporation within such time as the rules and regulations may provide.

(b) That a law corporation as a condition of obtaining a certificate pursuant to the Professional Corporation Act and this article shall provide and maintain security by insurance or otherwise for claims against it by its clients for errors and omissions arising out of the rendering of professional services.

(c) That the name of the law corporation and any name or names under which it renders legal services shall be in compliance with the rules and regulations.

(d) That the law corporation shall obtain from the State Bar and maintain current a fictitious name permit when required by the rules and regulations; that the permit may be obtained, maintained, suspended, and revoked pursuant to procedures set forth in the rules and regulations; and that the law corporation shall pay an application and renewal fee for the permit in such amounts as may be determined by the State Bar.

SEC. 11. Section 6171.1 is added to the Business and Professions Code, to read:

6171.1. Six months and one day following the death of a sole shareholder of a law corporation, the certificate of registration of the law corporation shall be deemed canceled by operation of this section. However, the certificate may be sooner canceled by receipt in the State Bar office of a written request for the cancellation from the personal representative or sole heir of the deceased shareholder or the person to whom the shares passed by will or operation of law following the death of the sole shareholder.

CHAPTER 466

An act to amend Sections 18967, 18970, and 18971 of the Welfare and Institutions Code, relating to child abuse and neglect.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985]

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

SECTION 1. Section 18967 of the Welfare and Institutions Code is amended to read:

18967. Money in the children's trust fund of each county shall be used to fund child abuse and neglect prevention and intervention programs operated by private nonprofit organizations or public institutions of higher education with recognized expertise in fields related to child welfare. The designated commission shall establish criteria for determining those programs which shall receive funding. The commission shall accept all program proposals, shall prioritize these proposals, and shall make recommendations to the board of supervisors as to those proposals which the commission feels should receive funding. The board of supervisors shall make the final decision as to which programs shall be funded. The county shall use no more than 5 percent of the amounts in the trust fund for administrative costs.

SEC. 2. Section 18970 of the Welfare and Institutions Code is amended to read:

18970. The department may use up to 50 percent of the funds appropriated to the State Children's Trust Fund pursuant to Section 18971 for innovative child abuse and neglect prevention and intervention programs, or evaluation research or dissemination of information concerning existing program models. The department shall expend funds appropriated to it pursuant to Section 18969 for innovative local child abuse and neglect prevention and intervention programs operated by private nonprofit organizations or public institutions of higher education with recognized expertise in fields related to child welfare. Funds may also be used for evaluation research or dissemination of information concerning existing program models.

SEC. 3. Section 18971 of the Welfare and Institutions Code is amended to read:

18971. Priority for funds transferred to the State Children's Trust Fund pursuant to Section 18968 shall be given to funding child abuse and neglect prevention and intervention programs operated by private nonprofit organizations or public institutions of higher education with recognized expertise in fields related to child welfare in the county where the funds originated, and where the county board of supervisors has not designated a commission pursuant to Section 18965 and has not established a county children's trust fund

pursuant to Section 18966. The department may allow the funds for a small county to accumulate to a usable amount, or fund regional programs serving several small counties. The department shall establish criteria for determining which programs shall be funded. Applicants for funding shall submit proposals to the department in response to a request for proposals. If there is no acceptable response to the department's requests for proposals from qualified public institutions of higher education or private nonprofit organizations in a county, then the department may use the funds from that county pursuant to Section 18970.

CHAPTER 467

An act to amend Section 868.5 of the Penal Code, relating to witnesses.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985]

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

SECTION 1. Section 868.5 of the Penal Code is amended to read:

868.5. (a) Notwithstanding any other provision of law, a prosecuting witness 16 years of age or under in a case involving a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, 289, or 647a, or a violation of subdivision (1) of Section 314, shall be entitled for support to the attendance of up to two family members of his or her own choosing, one of whom may be a witness, at the preliminary hearing and at the trial, during the testimony of the prosecuting witness. Only one of those support persons may accompany the witness to the witness stand, although the other may remain in the courtroom during the witness' testimony. The person or persons so chosen shall not be a person described in Section 1070 of the Evidence Code unless the person or persons are related to the prosecuting witness as a parent, guardian, or sibling and do not make notes during the hearing.

(b) If the person or persons so chosen are also prosecuting witnesses, the prosecution shall present evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing, the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony.

(c) The testimony of the person or persons so chosen who are also prosecuting witnesses shall be presented before the testimony of the prosecuting witness. The prosecuting witness shall be excluded from

the courtroom during that testimony. Whenever the evidence given by that person or those persons would be subject to exclusion because given before the corpus delicti has been established, the evidence shall be admitted subject to the court's or the defendant's motion to strike that evidence from the record if the corpus delicti is not later established by the testimony of the prosecuting witness.

CHAPTER 468

An act to amend Section 1029 of the Government Code, relating to government.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985]

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

SECTION 1. Section 1029 of the Government Code is amended to read:

1029. (a) Except as provided in subdivision (b), (c), or (d), each of the following persons is disqualified from holding office as a peace officer or being employed as a peace officer of the state, county, city, city and county or other political subdivision, whether with or without compensation, and is disqualified from any office or employment by the state, county, city, city and county or other political subdivision, whether with or without compensation, which confers upon the holder or employee the powers and duties of a peace officer:

(1) Any person who has been convicted of a felony in this state or any other state.

(2) Any person who has been convicted of any offense in any other state which would have been a felony if committed in this state.

(3) Any person who has been charged with a felony and adjudged by a superior court to be mentally incompetent under Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code.

(4) Any person who has been found not guilty by reason of insanity of any felony.

(5) Any person who has been determined to be a mentally disordered sex offender pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(6) Any person adjudged addicted or in danger of becoming addicted to narcotics, convicted, and committed to a state institution as provided in Section 3051 of the Welfare and Institutions Code.

(b) Any person who has been convicted of a felony, other than a felony punishable by death, in this state or any other state, or who has been convicted of any offense in any other state which would

have been a felony, other than a felony punishable by death, if committed in this state, and who demonstrates the ability to assist persons in programs of rehabilitation may hold office and be employed as a parole officer of the Department of Corrections or the Department of the Youth Authority, or as a probation officer in a county probation department, if he or she has been granted a full and unconditional pardon for the felony or offense of which he or she was convicted. Notwithstanding any other provision of law, the Department of Corrections or the Department of the Youth Authority, or a county probation department, may refuse to employ any such person regardless of his or her qualifications.

(c) Nothing in this section shall be construed to limit or curtail the power or authority of any board of police commissioners, chief of police, sheriff, mayor, or other appointing authority to appoint, employ, or deputize any person as a peace officer in time of disaster caused by flood, fire, pestilence or similar public calamity, or to exercise any power conferred by law to summon assistance in making arrests or preventing the commission of any criminal offense.

(d) Nothing in this section shall be construed to prohibit any person from holding office or being employed as a superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, if at the time of the person's hire a prior conviction of a felony was known to the person's employer, and the class of office for which the person was hired was not declared by law to be a class prohibited to persons convicted of a felony, but as a result of a change in classification, as provided by law, the new classification would prohibit employment of a person convicted of a felony.

CHAPTER 469

An act to repeal Section 20810.5 of, and to add Section 20930.1 to, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985]

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

SECTION 1. Section 20810.5 of the Government Code is repealed.

SEC. 2. Section 20930.1 is added to the Government Code, to read:

20930.1. "Public service" for the employee of a student body organization, which is not a contracting agency, of a community college, means the period of such employment prior to becoming a member of the permanent classified service of the district pursuant

to Section 76062 or 88020 of the Education Code. A member electing to receive public service credit under this section shall contribute an amount equal to the total employee contributions which would have been requisitioned under Section 20585 had such service been rendered in the employ of the community college district and the member rates and compensation on the date of transfer had been in effect throughout the period of service credited.

The county superintendent of schools or superintendent of schools of an independently contracting community college district shall draw a requisition against the funds of the community college district for an amount equal to the total employer contribution which would have been requisitioned under Section 20585 had such service been rendered in the employ of the community college district and the employer rate and member compensation on the date of transfer had been in effect throughout the period of service credited.

The governing board may, at its discretion, establish a method of recovering a portion of, or the total liability for, the amount so requisitioned.

Section 20932 shall not apply to a member electing public service credit under this section.

CHAPTER 470

An act to add Chapter 4.8 (commencing with Section 84670) to Part 50 of the Education Code, relating to community colleges.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985]

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

SECTION 1. Chapter 4.8 (commencing with Section 84670) is added to Part 50 of the Education Code, to read:

CHAPTER 4.8. EQUIPMENT REPLACEMENT PROGRAM

84670. The Legislature finds and declares that it is in the interest of the people of the State of California to ensure the continuation of the quality of instructional programs in the California Community Colleges. The Legislature recognizes that in many community college districts high operational costs and limited district revenues have combined to restrict the ability of the district to provide for adequate equipment in instructional programs.

It is the intent of the Legislature in enacting this chapter that funds be allocated pursuant to the requirements of this chapter to provide for the necessary repair of instructional equipment and the replacement of instructional equipment that is outmoded. It is further the intent of the Legislature that an annual appropriation of

state funds be made for this purpose in the annual Budget Act.

84671. The Board of Governors of the California Community Colleges shall adopt rules and regulations for the allocation of funds appropriated for the purposes of this chapter, for the acquisition, maintenance, and replacement of equipment as appropriate to maintain or establish a high level of quality in the operation of instructional programs.

84672. Allocations shall not be based on specific projects identified by the districts, except as provided in Section 84673, but on a general allocation formula that, in the judgment of the board of governors, reasonably reflects the needs of districts on a statewide basis. The board of governors shall establish criteria for the allocation of funds under this formula on the basis of its review of districts throughout the state.

84673. (a) The board of governors may withhold up to 20 percent of the funds appropriated for the purposes of this chapter, for allocation to specifically identified projects where the board finds that the funds allocated to a district are not sufficient to fund a critically needed instructional equipment expenditure, or that special funding is necessary as a condition of a contribution from private business or industry pursuant to an instructional equipment expenditure.

(b) The board of governors may allocate up to 5 percent of the funds withheld under subdivision (a) for purposes of review and administration costs incurred by the Chancellor of the California Community Colleges pursuant to that subdivision.

84674. (a) The governing board of a community college district may expend funds allocated under the general allocation formula for any equipment acquisition, maintenance, or replacement necessary to the purposes of this chapter. Equipment expenditures made through funding under this chapter should ensure that students are able to obtain the desired level of knowledge in educational programs leading to their enrollment in four-year educational institutions or, for students in occupational education programs, to obtain the necessary skill and knowledge for entry into the work force.

(b) Each community college district receiving funds under this chapter shall separately account for those funds and may spend the funds only for the purpose or purposes for which they are allocated. These funds may be utilized to obtain equipment by purchase, lease, or lease with an option to purchase.

CHAPTER 471

An act to amend Section 12413 of the Insurance Code, relating to insurance.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985]

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

SECTION 1. Section 12413 of the Insurance Code is amended to read:

12413. (a) No title insurance company, controlled escrow company, or underwritten title company shall disburse funds from an escrow account until items or drafts in an amount sufficient to fund any disbursements from the account have been received and deposited to the account or submitted for collection.

(b) Except as provided in Section 12404, where a draft, other than a share draft, has been received and submitted for collection, no title insurance company, controlled escrow company, or underwritten title company shall disburse funds from an escrow account with respect to the draft until the proceeds of the draft have become available for withdrawal as a matter of right from the financial institution to which the draft has been submitted for collection.

(c) Except as provided in Section 12404, where an item which is drawn on or issued by an office of a financial institution which is located in a state other than this state, has been received and deposited to the escrow account, no title insurance company, controlled escrow company, or underwritten title company shall disburse funds from the escrow account with respect to the item until the proceeds of the item have become available for withdrawal as a matter of right from the financial institution to which the deposit was made.

(d) For purposes of subdivisions (b) and (c), "available for withdrawal as a matter of right" means the following:

(1) For any item or draft, other than a share draft, when the item or draft has been submitted for collection and payment received.

(2) For any deposited item, the earlier of:

(A) When final settlement has occurred; or

(B) Unless written notification has been received from the financial institution to which the deposit was made establishing a longer period, for any item drawn on a state or federal saving and loan association or state or federal savings bank located in a state other than this state, that period established by regulations, issued pursuant to Article 1.8 (commencing with Section 866) of Chapter 7 of Division 1 of the Financial Code by the department having regulatory authority over the financial institution to which the item was deposited, as a reasonable time for permitting customers to draw on the item which was drawn on a financial institution located in a

state other than this state, notwithstanding any provision in the regulations limiting their application to items having a face amount less than a stated amount.

(C) Unless written notification has been received from the financial institution to which the deposit was made establishing a longer period, for any item drawn on a state or national bank located in a state other than this state, that period established by regulations, issued pursuant to Article 1.8 (commencing with Section 866) of Chapter 7 of Division 1 of the Financial Code by the department having regulatory authority over the financial institution to which the item was deposited, as a reasonable time for permitting customers to draw on the item which was drawn on a financial institution located in a state other than this state, notwithstanding any provision in the regulations limiting their application to items having a face amount less than a stated amount.

(D) Unless written notification has been received from the financial institution to which the deposit was made establishing a longer period, for any item drawn on any state or federal credit union located in a state other than this state, that period established by regulations, issued pursuant to Article 1.8 (commencing with Section 866) of Chapter 7 of Division 1 of the Financial Code by the department having regulatory authority over the financial institution to which the item was deposited, as a reasonable time for permitting customers to draw on the item which was drawn on a financial institution located in a state other than this state, notwithstanding any provision in the regulations limiting their application to items having a face amount less than a stated amount.

(E) When the financial institution to which the item has been deposited considers the item available for withdrawal as a matter of right, and when a final settlement will occur, as indicated to the title insurance company, controlled escrow company, or underwritten title company, in writing, by the depository financial institution with respect to that item or type of item.

(e) As used herein, the deposit to an escrow account of an item, or the submission for collection of an item, shall be deemed to have occurred on the date denominated the day of deposit as set forth in the regulations adopted pursuant to Article 1.8 (commencing with Section 866) of Chapter 7 of Division 1 of the Financial Code, applicable to the financial institution to which the item is deposited or submitted for collection by the title insurer, controlled escrow company, or underwritten title company.

(f) For purposes of this section, the term "escrow account" means any depository account with a financial institution to which items or drafts are deposited with respect to any transaction wherein one person, for the purpose of effecting the sale, transfer, encumbering or leasing of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the

performance of a prescribed condition, when it is then to be delivered by such third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor, or any agency or employee of the latter.

(g) For purposes of this section, the term "item" means any check (including a cashier's check), negotiable order of withdrawal, share draft, traveler's check, or money order.

(h) For purposes of this section, the term "financial institution" means any financial institution: (1) whose accounts are insured by either the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Administration, or (2) which is subject to the jurisdiction of either the Comptroller of the Currency, the Federal Home Loan Bank Board, or the National Credit Union Administration, or (3) is located in a state other than this state, and does not meet the requirements of paragraph (1) or (2), but is subject to the jurisdiction of the state with which it is located by an agency having authority comparable to that of either the State Department of State Banking, Department of Savings and Loan, or Department of Corporations.

(i) No title insurance company, controlled escrow company, or underwritten title company shall be liable for a violation of this section if the violation was not intentional or resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid that error. Examples of bona fide errors include, but are not limited to clerical, calculation, computer malfunction and programming, and printing errors.

(j) Nothing in this section shall be deemed to prohibit the recordation of documents prior to the time funds would be available for disbursement with respect to a transaction provided the parties to the transaction consent in writing prior thereto.

CHAPTER 472

An act to amend Sections 20685 and 20803 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985.]

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

SECTION 1. Section 20685 of the Public Contract Code is amended to read:

20685. All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of ten thousand dollars ($10,000) shall be let to the lowest bidder after competitive bidding. The board shall have the right to reject any and

all bids, in which case the board may call for new bids. In the event no proposals are received or where the estimated cost of such work does not exceed the sum of ten thousand dollars ($10,000) or where the work consists of emergency work necessary in order to protect life and property, the board of directors may have said work done by force account. The district shall have the power to purchase in the open market without calling for bids, materials and supplies for use in any work therewith either under contract, or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds ten thousand dollars ($10,000), without calling for bids and awarding the contract therefor to the lowest responsible bidder.

SEC. 2. Section 20803 of the Public Contract Code is amended to read:

20803. When the expenditure required for a district project exceeds ten thousand dollars ($10,000), it shall be contracted for and let to the lowest responsible bidder after notice, subject to the provisions of Section 20805.

CHAPTER 473

An act to amend Section 1100.2 of the Insurance Code, relating to insurance.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985]

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

SECTION 1. Section 1100.2 of the Insurance Code is amended to read:

1100.2. Notwithstanding the provisions of Section 1100, an insurer may own shares of an open-end diversified management investment company, as defined in the Federal Investment Company Act of 1940, that meets all of the following standards:

(a) It is registered with and reporting to the United States Securities and Exchange Commission.

(b) It is domiciled in the United States with all assets held in the United States by a bank, trust company or other authorized custodian chartered by the United States, its territories, possessions or states.

(c) It has assets in excess of one hundred million dollars ($100,000,000).

(d) Its annual management investment fee shall not exceed $\frac{9}{10}$ of 1 percent of the average daily asset value, and no other fees or commissions shall be charged to the insurer by any person.

(e) All of its assets are composed of (1) debt obligations issued by or on behalf of the United States, its territories and possessions, the

District of Columbia, and states or their political subdivisions, agencies and instrumentalities, including industrial development obligations; (2) corporate debt obligations other than debt obligations of the insurer or any company affiliated with the insurer; or, (3) accounts, deposits or obligations of banks or savings and loan associations. The assets shall be required to meet the requirements of and be authorized for investment by such insurer under Articles 3 (commencing with Section 1170) and 4 (commencing with Section 1190) of Chapter 2.

(f) Share certificates of the management investment company shall be issued to the insurer or be retained by a bank, trust company, or other entity other than the management investment company which is authorized by the United States to act as a transfer and dividend paying agent for the management investment company.

(g) All shares of the management investment company shall be of the same class with equal rights and privileges. Each share shall be entitled to one vote and to participate equally in dividends and distributions declared by the management investment company and in the net distributable assets of the management investment company on liquidation. When issued, the shares shall be fully paid and nonassessable and shall have no preemptive, conversion or exchange rights.

(h) Shareholders shall be entitled to require the management investment company to redeem all shares.

CHAPTER 474

An act to amend Sections 9891.20, 9891.22, 9891.39, and 9891.50 of the Business and Professions Code, relating to tax preparers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985]

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

SECTION 1. Section 9891.20 of the Business and Professions Code is amended to read:

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 of the following:

(A) Completion within 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.

(e) The requirement that a tax preparer possess a high school diploma or pass an equivalency examination as set forth in paragraph (2) of subdivision (c) shall not apply to any person who first applied for registration under this section prior to January 1, 1987, who was lawfully engaged in the activity of tax preparation or tax interviewing in California prior to November 1, 1983, and certifies to that fact under penalty of perjury, and who provides sufficient documentation as may be required by the administrator, on forms prescribed by the administrator.

SEC. 2. Section 9891.22 of the Business and Professions Code is amended to read:

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 September 1 of each year.

(b) Furnish to the administrator by October 31 of each year 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 of each year 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.

SEC. 3. Section 9891.39 of the Business and Professions Code is

amended to read:

9891.39. (a) Commencing January 31, 1983, the administrator of the program shall evaluate and consider, with the advice of the State Tax 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 November 1, 1986, registrants under the program shall be required to establish by October 31 of each registration year that they have successfully completed at least 20 hours of continuing education in courses approved for continuing education by the administrator.

SEC. 4. Section 9891.50 of the Business and Professions Code is amended to read:

9891.50. (a) The administrator of the program shall designate a State Tax Preparer Advisory Committee composed of 9 members divided equally between registrants, branches of the tax preparation industry exempted under Section 9891.2, and the general public.

(b) The State Tax 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 Tax Preparer Advisory Committee, which majority shall include public, registrant, and industry representatives shall constitute a quorum.

(d) The State Tax 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 Tax 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 Tax 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 Tax 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 Tax Preparer Advisory Committee for more than two full, consecutive four-year terms.

The terms of the members of the State Tax Preparer Advisory Committee appointed to fill the next vacancies which occur on or after January 1, 1988, shall expire as follows: one public member, one registrant member, and one member from the tax preparation industry, exempted under Section 9891.2, January 1, 1990; one public member, one registrant member, and one member from the tax preparation industry, exempted under Section 9891.2, January 1, 1991; one public member, one registrant member, and one member from the tax preparation industry, exempted under Section 9891.2, January 1, 1992. Thereafter, all appointments to the State Tax Preparer Advisory Committee shall be for a term of four years.

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 that numerous individuals who have engaged in the activity of tax preparation and who are otherwise qualified to engage in that activity may continue to pursue their vocation without undue interruption, and in order to authorize necessary administrative charges and to make the technical changes proposed by this bill, it is essential that this act take effect immediately.

CHAPTER 475

An act to amend Section 43003 of the Government Code, and to amend Sections 6502, 6505.1, 10408, and 10409 of, and to add Sections 6505.2, 6505.4, and 10408.5 to, the Streets and Highways Code, relating to notices of sale.

[Approved by Governor September 4, 1985 Filed with Secretary of State September 5, 1985]

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

SECTION 1. Section 43003 of the Government Code is amended to read:

43003. Tax liens may be enforced by either of the following:

(a) (1) A sale of the real property affected and execution and delivery of necessary certificates and deeds, under regulations prescribed by ordinance. The regulations shall include a requirement that notice of the proposed sale be sent to the parties of interest, as defined in Section 4675 of the Revenue and Taxation Code, by the method set forth in Section 3701 of the Revenue and Taxation Code.

(2) Section 3701 of the Revenue and Taxation Code applies to the sending of notice and the validity of sale under this subdivision as though fully set forth in the subdivision, except that, for purposes of this subdivision:

(A) The reference in Section 3701 to "written authorization of the Controller" means the earliest time when, pursuant to an ordinance adopted to comply with this subdivision and without the inclusion of any periods of notice otherwise required, the real property may be sold to enforce the lien.

(B) The reference to "tax collector" means the official charged by an ordinance adopted pursuant to this subdivision with the duty of conducting the sale.

(3) The city shall charge a fee for providing notice pursuant to this section in an amount which does not exceed the estimated reasonable cost.

(b) Action to foreclose the liens in any court of competent jurisdiction.

SEC. 2. Section 6502 of the Streets and Highways Code is amended to read:

6502. No sale of property shall be made pursuant to this chapter unless the notices are sent pursuant to Sections 6500, 6501, 6505, and 6505.2. The failure of the property owner to receive or accept the notices does not affect the validity of the sale or invalidate any subsequent act or proceeding.

SEC. 3. Section 6505.1 of the Streets and Highways Code is amended to read:

6505.1. The treasurer shall be under no obligation to publish or mail notice of sale as provided in Sections 6503, 6504, 6505, and 6505.2 unless the bondholder deposits with the treasurer, prior to the issuance of the notice, the following sums and documents:

(a) A receipt from the county recorder for the cost of recording notice of pendency of foreclosure as provided by Section 3121.

(b) A fee to reimburse the city or county for its estimated reasonable cost of obtaining the name and last known mailing address of, and for mailing notices required by Section 6505.2 to, parties of interest as defined by Section 6505.4.

(c) The sum of three dollars ($3) for ascertainment by the treasurer of the name and address of the property owner, as shown on the last equalized assessment roll for taxes, and any person whose name appears as owner on the records of the county assessor's office which will be used by the county to prepare the next assessor's roll.

(d) Cost of publication of the notice of sale.

(e) Treasurer's fee for issuance of certificate of sale which is hereby fixed at seven dollars ($7).

(f) Sheriff's travel fees, as provided in Section 26746 of the Government Code.

SEC. 4. Section 6505.2 is added to the Streets and Highways Code, to read:

6505.2. (a) Not less than 45 days nor more than 60 days prior to the date of sale, the treasurer shall send notice by registered mail to the last known mailing address, if available, of parties of interest, as defined in Section 6505.4. The content of the notice shall include the date, time, and place of the proposed sale, the amount required to

redeem prior to the time of sale, and information regarding the rights of persons to claim surplus money, as defined in Section 6501.1, if the property is sold and surplus money results from the sale.

(b) The treasurer shall make a reasonable effort to obtain the name and last known mailing address of parties of interest.

(c) The validity of any sale under this chapter is not affected if the treasurer's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive the mailed notice.

SEC. 5. Section 6505.4 is added to the Streets and Highways Code, to read:

6505.4. For the purpose of giving notice, as required by Section 6505.2, parties of interest are all of the following:

(a) Lienholders of record prior to the issuance of the treasurer's deed.

(b) Any other person who would be vested with title to all, or any portion, of the property to be sold by redemption of the property.

SEC. 6. Section 10408 of the Streets and Highways Code is amended to read:

10408. The notice of sale published pursuant to Section 10407 need not set out the description of the various parcels of land at length, but shall describe the parcels by their respective number as they appear upon the assessment and diagram. The notice shall refer to the assessment and diagram. Opposite the description or designation of each parcel of land shall be set out the name of the owner as it appears on the last equalized assessment roll for city taxes or as known to the tax collector, the amount assessed against the parcel, the penalty for delinquency, a fee which is required to reimburse the municipality for the estimated reasonable cost of providing notice pursuant to Section 10408.5, and the costs of sale chargeable to the parcel.

SEC. 7. Section 10408.5 is added to the Streets and Highways Code, to read:

10408.5. (a) Not less than 45 days nor more than 60 days prior to the date of sale, the tax collector shall send notice by registered mail to the last known mailing address, if available, of parties of interest, as defined in Section 6505.4. The content of the notice shall include the date, time, and place of the proposed sale, and the amount required to redeem prior to the time of the sale.

(b) The tax collector shall make a reasonable effort to obtain the name and last known mailing address of parties of interest.

(c) The validity of any sale under this chapter is not affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive the mailed notice.

SEC. 8. Section 10409 of the Streets and Highways Code is amended to read:

10409. At least 15 days prior to the date of the sale, the tax collector shall mail, postage prepaid, notices of sale to the owners of

all property upon which the assessments have not been paid, as they appear on the last equalized assessment roll for city taxes or as known to the tax collector. The various parcels shall be designated by their legal description or by street number in addition to their respective numbers as they appear upon the assessment and diagram. Opposite the description and designation of each parcel in the notice shall be set out the amount assessed against the property, the penalty for delinquency, a fee which is required to reimburse the municipality for the estimated reasonable cost of providing notice pursuant to Section 10408.5, and the portion of the costs of the sale chargeable to the parcel.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

CHAPTER 476

An act to amend Section 10133 of the Business and Professions Code, relating to real estate.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 6, 1985]

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

SECTION 1. Section 10133 of the Business and Professions Code is amended to read:

10133. (a) The acts described in Section 10131 are not acts for which a real estate license is required if performed by:

(1) A regular officer of a corporation or a general partner of a partnership with respect to real property owned or leased by the corporation or partnership, respectively, or in connection with the proposed purchase or leasing of real property by the corporation or partnership, respectively, if the acts are not performed by the officer or partner in expectation of special compensation.

(2) A person holding a duly executed power of attorney from the owner of the real property with respect to which the acts are performed.

(3) An attorney at law in rendering legal services to a client.

(4) A receiver, trustee in bankruptcy or other person acting under order of a court of competent jurisdiction.

(5) A trustee for the beneficiary of a deed of trust when selling under authority of that deed of trust.

(b) The exemptions in subdivision (a) are not applicable to a person who uses or attempts to use them for the purpose of evading the provisions of this part.

CHAPTER 477

An act to amend Sections 13850, 13851, 13852, 13853, and 13854 of the Penal Code, and to amend Section 2 of, and to repeal Section 3 of, Chapter 1292 of the Statutes of 1982, relating to crimes.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 6, 1985]

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

SECTION 1. Section 13850 of the Penal Code is amended to read:

13850. The Legislature hereby finds that a substantial and disproportionate amount of serious crime is committed against the people of California by a relatively small number of multiple and repeat felony offenders, commonly known as career criminals. In enacting this chapter, the Legislature intends to support increased efforts by local law enforcement agencies to investigate and apprehend career criminals through management, organization and operational techniques that have been demonstrated to be effective in selected cities and counties in this and other states, and through advanced state-of-the-art techniques that focus law enforcement efforts and resources on identifying persons subject to career criminal apprehension efforts.

SEC. 2. Section 13851 of the Penal Code is amended to read:

13851 (a) There is hereby established in the Office of Criminal Justice Planning a program of financial, training, and technical assistance for local law enforcement, called the California Career Criminal Apprehension Program. All funds made available to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of such office.

(b) The executive director is authorized to allocate and award funds to those local units of government or combinations thereof, in which a special program is established in law enforcement agencies that meets the criteria set forth in Sections 13852 and 13853.

(c) Such allocation and award of funds shall be made upon application executed by the chief law enforcement officer of the applicant unit of government and approved by the legislative body. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Career Criminal Apprehension Program, be made available to support the apprehension of multiple or repeat felony criminal offenders.

(d) The Executive Director of the Office of Criminal Justice Planning shall prepare and issue administrative guidelines and procedures for the California Career Criminal Apprehension Program consistent with this chapter.

(e) These guidelines shall set forth the terms and conditions upon which the Office of Criminal Justice Planning is prepared to offer

grants of funds pursuant to statutory authority. The guidelines do not constitute rules, regulations, orders or standards of general application.

(f) Every three years, commencing on and after October 1, 1990, the executive director shall prepare a report to the Legislature describing in detail the operation of the program and the results obtained from law enforcement career criminal apprehension programs receiving funds under this chapter.

SEC. 3. Section 13852 of the Penal Code is amended to read:

13852. Law enforcement agencies receiving funds under this chapter shall employ enhanced law enforcement management efforts and resources. Enhanced law enforcement efforts and resources shall include, but not be limited to:

(a) Crime analysis, which is the timely collection and study of local crime data to perform all of the following:

(1) Identify evolving or existing crime patterns, particularly those involving career felony criminals.

(2) Provide investigative leads.

(3) Identify geographical areas or population groups experiencing relatively severe crime victimization, in order to improve effectiveness of crime prevention efforts.

(4) Provide supporting data for improved allocation of overall law enforcement agency resources.

(b) Improved management of patrol and investigative operations involving use of information resulting from crime analysis, which may include participation in multijurisdictional investigative units and measures to increase continuity of investigative efforts from the initial patrol response through the arrest and prosecution of the offender. Such measures may include:

(1) Innovative personnel deployment techniques.

(2) Innovative techniques of case screening.

(3) Management of continuing investigations.

(4) Monitoring of investigation operations.

(c) (1) Each career criminal apprehension program, supported under this chapter, shall concentrate on the identification and arrest of career criminals and the support of their subsequent prosecution. The determination of which suspected felony offenders shall be the subject of career criminal apprehension efforts shall be in accordance with written criteria developed by the applicant law enforcement agency, consistent with Section 13853 and approved by the head district attorney. Highly qualified and experienced personnel shall be assigned to staff career criminal apprehension programs.

(2) Each career criminal apprehension program as one of its ongoing functions, shall maintain coordination with the prosecutor assigned to each case resulting from its efforts. This coordination should include, but not be limited to, case preparation, processing, and adjudication.

SEC. 4. Section 13853 of the Penal Code is amended to read:

13853. An individual may be the subject of career criminal apprehension efforts who is under investigation for the commission or attempted commission of one or more of the following felonies: homicide, rape or sexual assault, child molestation, robbery, burglary, arson, any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code, receiving stolen property, grand theft and grand theft auto; and who is determined to have committed three or more separate felony offenses not arising out of the same transaction, or has suffered at least one conviction during the preceding 10 years for the commission or attempted commission of any felony listed in subdivision (a), or at least two convictions during the preceding 10 years for the commission or attempted commission of any felony listed in subdivision (b):

(a) Robbery, as defined in Section 211, burglary of the first degree, arson as defined in Section 451 or 452, forcible rape, sodomy or oral copulation committed with force, lewd or lascivious conduct committed upon a child, kidnapping as defined in Section 209, or murder.

(b) Grand theft, grand theft auto, receiving stolen property, robbery other than that described in subdivision (a) above, burglary of the second degree, kidnapping as defined in Section 207, assault with a deadly weapon or instrument, or any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code.

For purposes of this chapter, the 10-year periods specified in this section shall be exclusive of any time which the arrested person has served in state prison.

SEC. 5. Section 13854 of the Penal Code is amended to read:

13854. (a) Criteria for selection of law enforcement agencies to receive career criminal apprehension program funding shall be developed in consultation with an advisory group entitled "The Career Criminal Apprehension Program Steering Committee."

(b) The Career Criminal Apprehension Program Steering Committee shall be composed of four police chiefs, three sheriffs, two district attorneys, two attorneys primarily engaged in the practice of criminal defense, one city manager and one county administrative officer, all of whom are designated by the executive director of the Office of Criminal Justice Planning, who shall provide staff services to the steering committee.

(c) The Executive Director of the Office of Criminal Justice Planning, in consultation with the steering committee, shall develop specific guidelines, and administrative procedures, for the selection of the California Career Criminal Apprehension Program whose guidelines shall include the selected criteria described in the subdivisions above.

(d) Administration of the overall program and the evaluation and monitoring of all grants made under this chapter shall be performed by the Office of Criminal Justice Planning, provided that funds

expended for such functions shall not exceed 7.5 percent of the total annual amount made available for the purpose of this chapter.

(e) Local assistance grants made pursuant to this chapter shall not be subject to review pursuant to Section 10290 of the Public Contract Code.

SEC. 6. Section 2 of Chapter 1292 of the Statutes of 1982 is amended to read:

Sec. 2. This act shall remain in effect only until January 1, 1996, and as of that date is repealed.

SEC. 7 Section 3 of Chapter 1292 of the Statutes of 1982 is repealed.

CHAPTER 478

An act to amend Section 14330 of the Business and Professions Code, relating to trademarks.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 6, 1985]

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

SECTION 1. Section 14330 of the Business and Professions Code is amended to read:

14330. (a) Likelihood of injury to business reputation or of dilution of the distinctive quality of a mark registered under this chapter, or a mark valid at common law, or a trade name valid at common law, shall be a ground for injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services.

(b) Any person who uses or unlawfully infringes upon a mark registered under this chapter or under Title 15 of the United States Code, other than in an otherwise noninfringing manner, either on the person's own goods or services or to describe the person's own goods or services, irrespective of whether the mark is used primarily as an ornament, decoration, garnishment, or embellishment on or in products, merchandise, or goods, for the purpose of enhancing the commercial value of, or selling or soliciting purchases of, products, merchandise, goods or services, without prior consent of the owner of the mark, shall be subject to an injunction against that use by the owner of the mark.

(c) Nothing in subdivision (b) shall be construed to prohibit comparative advertising.

(d) For the purposes of this section, the term "comparative advertising" means the use of a competitor's trademark in advertising to compare the relative qualities of the competitive goods.

CHAPTER 479

An act to add Section 16472.1 to the Public Utilities Code, relating to public utility districts.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 6, 1985]

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

SECTION 1. Section 16472.1 is added to the Public Utilities Code, to read:

16472.1. (a) Notwithstanding Sections 16469 to 16472, inclusive, and as an alternative to the procedures specified in those sections, a district may provide by resolution or ordinance that delinquent water charges and interest and penalties thereon constitute a lien on the real property served when a certificate is recorded pursuant to this section, which shall continue in effect until the amount of charges, interest, and penalties are paid or the property is sold to satisfy the charges, interest, and penalties. No lien may be created under this section on any publicly owned property.

(b) A lien pursuant to this section attaches when the district files for record in the office of the county recorder a certificate specifying the amount of charges, interest, and penalties due; the name of the owner of record of the property; the legal description of the property served; and the fact that the district has complied with all provisions of this part in the determination of the charges, interest, and penalties due. From the time of recordation of the certificate, the charges, interest, and penalties constitute a lien on the property. Within 30 days of receipt of payment of all costs specified in subdivision (a), or within 30 days of a demand by an escrow agent in the event of a voluntary sale, the district shall record in the office of the county recorder a release of the lien created by this section.

(c) The county recorder shall charge the district the fees specified in Sections 27361 and 27361.4 of the Government Code for recording any certificate pursuant to subdivision (b).

(d) This section is in addition to any other remedies available to a district.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

CHAPTER 480

An act to amend Sections 4002 and 4006 of the Elections Code, and to amend Section 54794 of the Government Code, relating to local agencies.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 6, 1985]

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

SECTION 1. Section 4002 of the Elections Code is amended to read:

4002. Before circulating an initiative petition in any city, the proponents shall publish a notice of intention so to do, which notice shall be accompanied by a written statement not in excess of 500 words, setting forth the reasons for the proposed petition. The notice shall be signed by at least one, but not more than five, proponents and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given of the intention of the persons whose names appear hereon of their intention to circulate the petition within the City of _____ for the purpose of _____. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

SEC. 2. Section 4006 of the Elections Code is amended to read:

4006. Signatures upon petitions and sections of petitions shall be secured, and the petition, together with all sections of the petition, shall be filed within 180 days from the date of publication or posting, or both, of the notice of intention and statement. If the petitions are not filed within the time permitted by this section, the petitions shall be void for all purposes.

SEC. 3. Section 54794 of the Government Code is amended to read:

54794. The executive officer shall review each application which is filed with him or her and shall prepare a report, including his or her recommendations. The report shall be completed not less than five days prior to the date specified in the notice of hearing. Upon completion, the executive officer shall furnish copies of the report to each of the following:

(a) The officers or persons designated in the application.

(b) Each local agency whose boundaries or sphere of influence would be changed by the proposal or recommendation.

(c) Each affected local agency which has filed a request for a report with the executive officer.

(d) The executive officer of another affected county when a district is or will be located in that other county.

(e) Each affected city.

CHAPTER 481

An act to amend Section 25503.3 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 6, 1985]

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

SECTION 1. Section 25503.3 of the Business and Professions Code is amended to read:

25503.3. Anything in this division to the contrary notwithstanding, any winegrower, beer manufacturer, brandy manufacturer, distilled spirits manufacturer, or distilled spirits manufacturer's agent may, at parties held, or in hospitality rooms maintained, in conjunction with meetings, conventions, or combined conventions and trade shows of bona fide trade associations of retail licensees, serve and provide free of charge, food, and alcoholic and nonalcoholic beverages to such retail licensees and their guests while attending such meetings, conventions, or combined conventions and trade shows.

Any person specified in this section may advertise in any regular publication of a bona fide trade association the members of which are food retailers, published at least monthly, if such publication does not advertise on behalf of, or directly benefit, any individual retail licensee. A "food retailer," for the purpose of this chapter, means a person engaged primarily in the retail sale of food other than alcoholic beverages.

CHAPTER 482

An act to amend Section 21372 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 6, 1985]

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

SECTION 1. Section 21372 of the Government Code is amended to read:

21372. For the purpose of Sections 21364, 21365.5, 21365.6 and Article 6 (commencing with Section 21380):

(a) Any surviving spouse receiving an allowance thereunder on

January 1, 1983, may irrevocably elect between March 1, 1983, and June 1, 1983, to receive a reduced lifetime allowance which is the actuarial equivalent of the allowance otherwise payable.

(b) Any surviving spouse of a member whose death occurs on or after January 1, 1983, may irrevocably elect within 24 months of the death of the member to receive a reduced lifetime allowance which is the actuarial equivalent of the benefit otherwise payable.

(c) Notwithstanding subdivisions (a) and (b), any surviving spouse who was provided an opportunity to elect pursuant to subdivision (a) or (b) may, on or before September 30, 1986, revoke that election without actuarial cost to the system.

(d) The allowances payable pursuant to subdivisions (b) and (c) shall commence to be payable on the first day of the calendar month immediately following the calendar month in which the election is received by the system.

CHAPTER 483

An act to amend Sections 4984.7, 4986.41, 4986.80, 9043, 9043.1, and 9048 of, and to add Sections 4996.3, 4996.4, and 4996.6 to, the Business and Professions Code, relating to behavioral sciences, and making an appropriation therefor.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 6, 1985]

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

SECTION 1. Section 4984.7 of the Business and Professions Code is amended to read:

4984.7. The amount of the fees prescribed by the provisions of this chapter which relate to licensing of persons to engage in the business of marriage, family and child counseling is that fixed by the following schedule:

(a) The application fee shall be thirty dollars ($30). The fee for applications for original licensure received on or after July 1, 1986, shall be eighty dollars ($80).

(b) The renewal fee shall be thirty dollars ($30). For those person renewing their licenses on or after July 1, 1986, the renewal fee shall be forty dollars ($40).

(c) The delinquency fee shall be ten dollars ($10). For those persons failing to renew their licenses in a timely manner on or after July 1, 1986, the delinquency fee shall be twenty-five dollars ($25). Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all outstanding delinquency fees.

(d) The registration fee for an intern shall be fifteen dollars ($15).

For those persons registering as interns on or after July 1, 1986, the registration fee shall be twenty-five dollars ($25).

(e) The renewal fee for an intern shall be seven dollars ($7). For those persons renewing their registration as an intern on or after July 1, 1986, the renewal fee shall be fifteen dollars ($15).

(f) The examination fee shall be in an amount set by the board not to exceed thirty dollars ($30).

(g) Persons failing the examination may apply for reexamination and each application shall be accompanied by a reexamination fee in the amount of thirty dollars ($30). Persons failing to appear for the reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

SEC. 2. Section 4986.41 of the Business and Professions Code is amended to read:

4986.41. (a) An applicant who has failed the examination may apply for reexamination upon payment of a fee of ten dollars ($10) if he or she applies within the 12-month period subsequent to failure of the examination.

(b) For persons applying for reexamination under the terms of this section on or after July 1, 1986, the reexamination fee shall be twenty dollars ($20) for each application. Persons failing to appear for reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

SEC. 3. Section 4986.80 of the Business and Professions Code is amended to read:

4986.80. The amount of the fees prescribed by the provisions of this chapter which relate to the licensing of educational psychologists is that fixed by the following schedule:

(a) The application fee and renewal fee shall be fixed by the board in an amount which does not exceed one hundred fifty dollars ($150) but is sufficient to support the functions of the board which relate to the licensing of educational psychologists.

(b) The delinquency fee shall be ten dollars ($10). For those persons failing to renew their licenses in a timely manner on or after July 1, 1986, the delinquency fee shall be twenty-five dollars ($25). Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all outstanding delinquency fees.

(c) Persons applying for an original license after July 1, 1986, shall pay an application fee of one hundred dollars ($100).

(d) Persons applying for renewal of their license after July 1, 1986, shall pay a fee of fifty dollars ($50).

SEC. 4. Section 9043 of the Business and Professions Code is amended to read:

9043. Each application for original licensure shall be accompanied by a fee of fifty dollars ($50), which shall be deposited by the board into the State Treasury to the credit of the Behavioral Science Examiners Fund.

Each application for original licensure received on or after July 1, 1986, shall be accompanied by a fee of seventy-five dollars ($75), which shall be deposited by the board into the State Treasury to the credit of the Behavioral Science Examiners Fund.

SEC. 5. Section 9043.1 of the Business and Professions Code is amended to read:

9043.1. Notwithstanding the provisions of Section 9043, an applicant who has failed the examination may apply for reexamination upon payment of a reexamination fee of ten dollars ($10) if he or she applies within the 12-month period subsequent to failure of the examination. For persons applying for reexamination under the terms of this section on or after July 1, 1986, the reexamination fee shall be twenty dollars ($20) for each application. Persons failing to appear for reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

SEC. 6. Section 9048 of the Business and Professions Code is amended to read:

9048. (a) A renewal fee in the sum of ten dollars ($10) shall be charged and collected annually by the board prior to the last day of March of each calendar year. Such fees shall be deposited in the State Treasury to the credit of the Behavioral Science Examiners Fund.

On or after July 1, 1986, a renewal fee in the sum of forty dollars ($40) shall be charged and collected on a biennial basis by the board in accordance with the provisions of Section 152.6. The fees shall be deposited in the State Treasury to the credit of the Behavioral Science Examiners Fund.

(b) A five dollar ($5) delinquency fee shall be added to the renewal fee when the renewal fee is not received by the board prior to the last day of March of each calendar year.

For all licenses renewed on or after July 1, 1986, a delinquency fee in the amount of twenty-five dollars ($25) shall be added to the renewal of any biennial license which is not renewed on a timely basis.

Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.

SEC. 7. Section 4996.3 is added to the Business and Professions Code, to read:

4996.3. Each application for original licensure shall be accompanied by a fee of fifty dollars ($50), which shall be deposited by the board into the State Treasury to the credit of the Behavioral Science Examiners Fund.

Each application for original licensure received on or after July 1, 1986, shall be accompanied by a fee of seventy-five dollars ($75), which shall be deposited by the board into the State Treasury to the credit of the Behavioral Science Examiners Fund.

SEC. 8 Section 4996.4 is added to the Business and Professions Code, to read:

4996.4. Notwithstanding the provisions of Section 4996.3, an applicant who has failed the examination may apply for reexamination upon payment of a reexamination fee of ten dollars ($10) if he or she applies within the 12-month period subsequent to failure of the examination. For persons applying for reexamination under the terms of this section on or after July 1, 1986, the reexamination fee shall be twenty dollars ($20) for each application. Persons failing to appear for reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

SEC. 9. Section 4996.6 is added to the Business and Professions Code, to read:

4996.6. (a) A renewal fee in the sum of ten dollars ($10) shall be charged and collected annually by the board prior to the last day of March of each calendar year. The fees shall be deposited in the State Treasury to the credit of the Behavioral Science Examiners Fund.

On or after July 1, 1986, a renewal fee in the sum of forty dollars ($40) shall be charged and collected on a biennial basis by the board in accordance with the provisions of Section 152.6. The fees shall be deposited in the State Treasury to the credit of the Behavioral Science Examiners Fund.

(b) A five dollar ($5) delinquency fee shall be added to the renewal fee when the renewal fee is not received by the board prior to the last day of March of each calendar year.

For all licenses renewed on or after July 1, 1986, a delinquency fee in the amount of twenty-five dollars ($25) shall be added to the renewal of any biennial license which is not renewed on a timely basis.

Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.

SEC. 10. Sections 7, 8, and 9 of this bill shall only become operative if AB 2159 and this bill are enacted and become effective on January 1, 1986, AB 2159 adds Sections 4996.3, 4996.4, and 4996.6 to the Business and Professions Code and this bill amends Sections 9043, 9043.1, and 9048 of the Business and Professions Code, and this bill is enacted after AB 2159, in which case Sections 4, 5, and 6 of this bill and Sections 4996.3, 4996.4, and 4996.6 of the Business and Professions Code, as proposed to be added by Section 1 of AB 2159, shall not become operative.

CHAPTER 484

An act to add Section 56.105 to the Civil Code, relating to medical information.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 6, 1985]

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

SECTION 1. Section 56.105 is added to the Civil Code, to read:

56.105. Whenever, prior to the service of a complaint upon a defendant in any action arising out of the professional negligence of a person holding a valid physician's and surgeon's certificate issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a demand for settlement or offer to compromise is made on a patient's behalf, the demand or offer shall be accompanied by an authorization to disclose medical information to persons or organizations insuring, responsible for, or defending professional liability that the certificate holder may incur. The authorization shall be in accordance with Section 56.11 and shall authorize disclosure of that information that is necessary to investigate issues of liability and extent of potential damages in evaluating the merits of the demand for settlement or offer to compromise.

Notice of any request for medical information made pursuant to an authorization as provided by this section shall be given to the patient or the patient's legal representative. The notice shall describe the inclusive subject matter and dates of the materials requested and shall also authorize the patient or the patient's legal representative to receive, upon request, copies of the information at his or her expense.

Nothing in this section shall be construed to waive or limit any applicable privileges set forth in the Evidence Code except for the disclosure of medical information subject to the patient's authorization. Nothing in this section shall be construed as authorizing a representative of any person from whom settlement has been demanded to communicate in violation of the physician-patient privilege with a treating physician except for the medical information request.

The requirements of this section are independent of the requirements of Section 364 of the Code of Civil Procedure.

CHAPTER 485

An act to amend Sections 18551, 34312, and 34516 of the Health and Safety Code, relating to mobilehomes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 1985. Filed with Secretary of State September 6, 1985]

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

SECTION 1. Section 18551 of the Health and Safety Code is amended to read:

18551. (a) The department shall establish regulations for manufactured home, mobilehome, and commercial coach foundation systems which shall be applicable throughout the state. When established, these regulations supersede any ordinance enacted by any city, county, or city and county applicable to manufactured home, mobilehome, and commercial coach foundation systems. The department may approve alternate foundations systems to those provided by regulation where the department is satisfied of equivalent performance. The department shall document approval of alternate systems by its stamp of approval on the plans and specifications for the alternate foundation system.

(b) Prior to installation of a manufactured home, mobilehome, or commercial coach on a foundation system, the manufactured home, mobilehome, or commercial coach owner or a licensed contractor shall obtain a building permit from the appropriate local agency. To obtain a permit, the owner or contractor shall provide the following:

(1) Written evidence acceptable to the local agency that the manufactured home, mobilehome, or, commercial coach owner owns, holds title to, or is purchasing the real property where the mobilehome is to be installed on a foundation system. A lease held by the manufactured home, mobilehome, or commercial coach owners, which is transferable, for the exclusive use of the real property where the manufactured home, mobilehome, or commercial coach is to be installed, shall be deemed to comply with this paragraph if the lease is for a term of 35 years or more, or if less than 35 years, for a term mutually agreed upon by the lessor and lessee, and the term of the lease is not revocable at the discretion of the lessor except for cause, as described in subdivisions 2 to 5, inclusive, of Section 1161 of the Code of Civil Procedure.

(2) Written evidence acceptable to the local agency that the registered owner owns the manufactured home, mobilehome, or commercial coach free of any liens or encumbrances or, in the event that the legal owner is not the registered owner, or liens and encumbrances exist on the manufactured home, mobilehome, or commercial coach, written evidence provided by the legal owner and any lienors or encumbrancers that the legal owner, lienor, or encumbrancer consents to the attachment of the manufactured home, mobilehome, or commercial coach upon the discharge of any personal lien, which may be conditioned upon the satisfaction by the registered owner of the obligation secured by the lien.

(3) Plans and specifications required by department regulations or a department-approved alternate for the manufactured home, mobilehome, or commercial coach foundation system

(4) The manufactured home, mobilehome, or commercial coach manufacturer's installation instructions, or plans and specifications

signed by a California licensed architect or engineer covering the installation of an individual manufactured home, mobilehome, or commercial coach in the absence of the manufactured home, mobilehome. or commercial coach manufacturer's instructions.

(5) Building permit fees established by ordinance of the city, county, or city and county of the appropriate local agency.

(6) A fee payable to the department in the amount of eleven dollars ($11) for each transportable section of the manufactured home, mobilehome, or commercial coach, which shall be immediately transmitted to the department with a copy of the building permit and any other information concerning the manufactured home, mobilehome, or commercial coach which the department may prescribe on forms provided by the department.

(c) (1) On the same day that the certificate of occupancy for the manufactured home, mobilehome, or commercial coach is issued by the appropriate local agency, the local agency shall record with the county recorder of the county in which the real property is situated, on which the manufactured home, mobilehome, or commercial coach has been installed, a document naming the owner of the real property, describing the real property with certainty, and stating that a manufactured home, mobilehome, or commercial coach has been affixed to such real property by installation on a foundation system pursuant to this section.

(2) When recorded, the document referred to above shall be indexed by the county recorder to the named owner and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

(3) If the manufactured home, mobilehome, or commercial coach is registered with the department, the local agency shall notify the department that the manufactured home, mobilehome, or commercial coach has been installed on a foundation system.

(4) Fees received by the department pursuant to this subdivision shall be deposited in the Mobilehome-Manufactured Home Revolving Fund established under subdivision (a) of Section 18016. To the extent these fees are utilized for enforcement of consumer protections, subdivision (b) of Section 18016.5 shall not apply.

(d) The department shall adopt regulations providing for the cancellation of registration of a manufactured home, mobilehome, or commercial coach which is permanently attached to the ground on a foundation system pursuant to this section. The regulations shall provide for the surrender to the department of the certificate of title and other indicia of registration. For the purposes of this subdivision, permanent affixation to a foundation system shall be deemed to have occurred on the day a certificate of occupancy is issued to the manufactured home, mobilehome, or commercial coach owner and the document referred to in paragraph (6) of subdivision (b) is recorded. Cancellation shall be effective as of that date and the department shall enter such cancellation on its records upon receipt of a copy of the certificate of occupancy. This subdivision shall not

be construed to affect the application of existing laws, or the department's regulations or procedures with regard to the cancellation of registration, except as to the requirement therefor and the effective date thereof.

(e) Once installed on a foundation system in compliance with subdivisions (b), (c), and (d), a manufactured home, mobilehome, or commercial coach shall be deemed a fixture and a real property improvement to the real property to which it is affixed. Physical removal of the manufactured home, mobilehome, or commercial coach shall thereafter be prohibited without the consent of all persons or entities who, at the time of removal, have title to any estate or interest in the real property to which the manufactured home, mobilehome, or commercial coach is affixed.

(f) For the purposes of this part:

(1) "Physical removal" shall include, without limitation, the unattaching of the manufactured home, mobilehome, or commercial coach from the foundation system, except for temporary purposes of repair or improvement thereto.

(2) Consent to removal shall not be required from the owners of rights-of-way or easements or the owners of subsurface rights or interests in or to minerals, including, but not limited to, oil, gas, or other hydrocarbon substances.

(g) At least 30 days prior to a legal removal of the manufactured home, mobilehome, or commercial coach from the foundation system and transportation away from the real property to which it was formerly affixed, the manufactured home, mobilehome, or commercial coach owner shall notify the department and the county assessor of the intended removal of the manufactured home, mobilehome, or commercial coach. The department shall require written evidence that the necessary consents have been obtained pursuant to this section and shall require application for either a transportation permit or manufactured home, mobilehome, or commercial coach registration as the department may decide is appropriate to the circumstances. Immediately upon removal, as defined in this section, the manufactured home, mobilehome, or commercial coach shall be deemed to have become personal property and subject to all laws governing the same as applicable to a manufactured home, mobilehome, or commercial coach.

(h) Notwithstanding any other provision of law, any manufactured home, mobilehome, or commercial coach installed on a foundation system, attached, or otherwise permanently affixed to, real property without compliance with subdivisions (b), (c), and (d), shall not be deemed a fixture or improvement to the real property. This subdivision shall not be construed to affect the application of sales and use or property taxes.

(i) Once installed on a foundation system, a manufactured home, mobilehome, or commercial coach shall be subject to state enforced health and safety standards for manufactured homes, mobilehomes, or commercial coaches enforced pursuant to Section 18020.

(j) No local agency shall require that any manufactured home, mobilehome, or commercial coach currently on private property be placed on a foundation system.

(k) No local agency shall require that any manufactured home or mobilehome located in a mobilehome park be placed on a foundation system, so as to be permanently affixed to real property.

(*l*) No local agency shall require, as a condition for the approval of the conversion of a rental mobilehome park to a resident-owned park, including, but not limited to, a subdivision, cooperative, or condominium for mobilehomes, that any manufactured home or mobilehome located there be placed on a foundation system, so as to be permanently affixed to real property. This subdivision shall only apply to the conversion of a rental mobilehome park which has been operated as a rental mobilehome park for a minimum period of five years.

SEC. 2. Section 18551 of the Health and Safety Code, amended by Section 1 of this act, is amended to read:

18551. (a) The department shall establish regulations for manufactured home, mobilehome, and commercial coach foundation systems which shall be applicable throughout the state. When established, these regulations supersede any ordinance enacted by any city, county, or city and county applicable to manufactured home, mobilehome, and commercial coach foundation systems. The department may approve alternate foundations systems to those provided by regulation where the department is satisfied of equivalent performance. The department shall document approval of alternate systems by its stamp of approval on the plans and specifications for the alternate foundation system.

(b) Prior to installation of a manufactured home, mobilehome, or commercial coach on a foundation system, the manufactured home, mobilehome, or commercial coach owner or a licensed contractor shall obtain a building permit from the appropriate local agency. To obtain a permit, the owner or contractor shall provide the following:

(1) Written evidence acceptable to the local agency that the manufactured home, mobilehome, or, commercial coach owner owns, holds title to, or is purchasing the real property where the mobilehome is to be installed on a foundation system. A lease held by the manufactured home, mobilehome, or commercial coach owner, which is transferable, for the exclusive use of the real property where the manufactured home, mobilehome, or commercial coach is to be installed, shall be deemed to comply with this paragraph if the lease is for a term of 35 years or more, or if less than 35 years. for a term mutually agreed upon by the lessor and lessee, and the term of the lease is not revocable at the discretion of the lessor except for cause, as described in subdivisions 2 to 5, inclusive, of Section 1161 of the Code of Civil Procedure.

(2) Written evidence acceptable to the local agency that the registered owner owns the manufactured home, mobilehome, or commercial coach free of any liens or encumbrances or, in the event

that the legal owner is not the registered owner, or liens and encumbrances exist on the manufactured home, mobilehome, or commercial coach, written evidence provided by the legal owner and any lienors or encumbrancers that the legal owner, lienor, or encumbrancer consents to the attachment of the manufactured home, mobilehome, or commercial coach upon the discharge of any personal lien, which may be conditioned upon the satisfaction by the registered owner of the obligation secured by the lien.

(3) Plans and specifications required by department regulations or a department-approved alternate for the manufactured home, mobilehome, or commercial coach foundation system.

(4) The manufactured home, mobilehome, or commercial coach manufacturer's installation instructions, or plans and specifications signed by a California licensed architect or engineer covering the installation of an individual manufactured home, mobilehome, or commercial coach in the absence of the manufactured home, mobilehome, or commercial coach manufacturer's instructions.

(5) Building permit fees established by ordinance of the city, county, or city and county of the appropriate local agency.

(6) A fee payable to the department in the amount of eleven dollars ($11) for each transportable section of the manufactured home, mobilehome, or commercial coach, which shall be transmitted to the department at the time the certificate of occupancy is issued with a copy of the building permit and any other information concerning the manufactured home, mobilehome, or commercial coach which the department may prescribe on forms provided by the department.

(c) (1) On the same day that the certificate of occupancy for the manufactured home, mobilehome, or commercial coach is issued by the appropriate local agency, the local agency shall record with the county recorder of the county in which the real property is situated, on which the manufactured home, mobilehome, or commercial coach has been installed, a document naming the owner of the real property, describing the real property with certainty, and stating that a manufactured home, mobilehome, or commercial coach has been affixed to such real property by installation on a foundation system pursuant to this section.

(2) When recorded, the document referred to in paragraph (1) shall be indexed by the county recorder to the named owner and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

(3) Fees received by the department pursuant to subdivision (b) shall be deposited in the Mobilehome-Manufactured Home Revolving Fund established under subdivision (a) of Section 18016. To the extent these fees are utilized for enforcement of consumer protections, subdivision (b) of Section 18016.5 does not apply.

(d) The department shall adopt regulations providing for the cancellation of registration of a manufactured home, mobilehome, or commercial coach which is permanently attached to the ground on

a foundation system pursuant to this section. The regulations shall provide for the surrender to the department of the certificate of title and other indicia of registration. For the purposes of this subdivision, permanent affixation to a foundation system shall be deemed to have occurred on the day a certificate of occupancy is issued to the manufactured home, mobilehome, or commercial coach owner and the document referred to in paragraph (6) of subdivision (b) is recorded. Cancellation shall be effective as of that date and the department shall enter such cancellation on its records upon receipt of a copy of the certificate of occupancy. This subdivision shall not be construed to affect the application of existing laws, or the department's regulations or procedures with regard to the cancellation of registration, except as to the requirement therefor and the effective date thereof.

(e) Once installed on a foundation system in compliance with subdivisions (b), (c), and (d), a manufactured home, mobilehome, or commercial coach shall be deemed a fixture and a real property improvement to the real property to which it is affixed. Physical removal of the manufactured home, mobilehome, or commercial coach shall thereafter be prohibited without the consent of all persons or entities who, at the time of removal, have title to any estate or interest in the real property to which the manufactured home, mobilehome, or commercial coach is affixed.

(f) For the purposes of this part:

(1) "Physical removal" shall include, without limitation, the unattaching of the manufactured home, mobilehome, or commercial coach from the foundation system, except for temporary purposes of repair or improvement thereto.

(2) Consent to removal shall not be required from the owners of rights-of-way or easements or the owners of subsurface rights or interests in or to minerals, including, but not limited to, oil, gas, or other hydrocarbon substances.

(g) At least 30 days prior to a legal removal of the manufactured home, mobilehome, or commercial coach from the foundation system and transportation away from the real property to which it was formerly affixed, the manufactured home, mobilehome, or commercial coach owner shall notify the department and the county assessor of the intended removal of the manufactured home, mobilehome, or commercial coach. The department shall require written evidence that the necessary consents have been obtained pursuant to this section and shall require application for either a transportation permit or manufactured home, mobilehome, or commercial coach registration as the department may decide is appropriate to the circumstances. Immediately upon removal, as defined in this section, the manufactured home, mobilehome, or commercial coach shall be deemed to have become personal property and subject to all laws governing the same as applicable to a manufactured home, mobilehome, or commercial coach.

(h) Notwithstanding any other provision of law, any

manufactured home, mobilehome, or commercial coach installed on a foundation system, attached, or otherwise permanently affixed to, real property without compliance with subdivisions (b), (c), and (d), shall not be deemed a fixture or improvement to the real property. This subdivision shall not be construed to affect the application of sales and use or property taxes.

(i) Once installed on a foundation system, a manufactured home, mobilehome, or commercial coach shall be subject to state enforced health and safety standards for manufactured homes, mobilehomes, or commercial coaches enforced pursuant to Section 18020.

(j) No local agency shall require that any manufactured home, mobilehome, or commercial coach currently on private property be placed on a foundation system.

(k) No local agency shall require that any manufactured home or mobilehome located in a mobilehome park be placed on a foundation system, so as to be permanently affixed to real property.

(*l*) No local agency shall require, as a condition for the approval of the conversion of a rental mobilehome park to a resident-owned park, including, but not limited to, a subdivision, cooperative, or condominium for mobilehomes, that any manufactured home or mobilehome located there be placed on a foundation system, so as to be permanently affixed to real property. This subdivision shall only apply to the conversion of a rental mobilehome park which has been operated as a rental mobilehome park for a minimum period of five years.

SEC. 3. Section 34312 of the Health and Safety Code is amended to read:

34312. Within its area of operation, an authority may undertake any of the following:

(a) Prepare, carry out, acquire, lease, and operate housing projects for persons of low income, as authorized by this chapter, and housing developments for persons of low income, as authorized by Part 3 (commencing with Section 50900) of Division 31.

(b) Provide for the construction, reconstruction, improvement, alteration, or repair of all or part of any housing project.

(c) Provide leased housing to persons of low income.

(d) Provide financing for the construction or rehabilitation (including refinancing of existing obligations on the property to be rehabilitated) of dwelling accommodations for persons of low income, and for other persons when acting pursuant to the authorization contained in Part 13 (commencing with Section 37910) of this division or Part 3 (commencing with Section 50900) of Division 31, subject only to the limitations on income of borrowers or residents prescribed by the statutory provisions under which the authority is acting. With respect to financing activities conducted pursuant to Part 3 (commencing with Section 50900) or Part 4 (commencing with Section 51600) of Division 31, the authority shall obtain certification as a qualified mortgage lender pursuant to Section 50094.

(e) Provide counseling, referral, and advisory services to persons and families of low or moderate income in connection with the purchase, rental, occupancy, maintenance, or repair of housing.

(f) Provide the security which the authority deems necessary for the protection of a project and its inhabitants.

(g) Assist housing projects pursuant to Section 34312.3.

(h) Acquire, plan, undertake, construct, improve, develop, maintain, and operate land on which mobilehomes or a mobilehome park are, or may be, located, so long as not less than 20 percent of the mobilehomes are designated for occupancy by, or are occupied by, persons of low income. For purposes of this subdivision, "mobilehome" has the meaning specified in Section 18008, and "mobilehome park" has the meaning specified in Section 18214.

SEC. 4. Section 34516 of the Health and Safety Code is amended to read:

34516. A state public body may do any of the following:

(a) Any and all things, necessary or convenient, to aid and cooperate in the planning, undertaking, construction, or operation of housing projects.

(b) Purchase or legally invest in any of the bonds of a housing authority and exercise all of the rights of any holder of the bonds.

(c) Enter into leases or installment payment contracts without any limitation on the duration thereof for the purpose of aiding and cooperating with a housing authority in financing the acquisition, planning, undertaking, construction, or operation of land on which mobilehomes or a mobilehome park are, or may be, located, and exercise any powers with respect to that financing and land as it may exercise with respect to housing projects, if the requirements of subdivision (h) of Section 34312 are satisfied with respect to the percentage of occupancy by persons of low income.

SEC. 5. Section 2 of this bill incorporates amendments to Section 18551 of the Health and Safety Code proposed by both this bill and AB 1567. It shall only become operative if (1) both bills become effective on or before January 1, 1986, but this bill becomes operative first, (2) each bill amends Section 18551 of the Health and Safety Code, and (3) this bill is enacted after AB 1567, in which case Section 18551 of the Health and Safety Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1567, at which time Section 2 of this bill shall 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 provide for uniformity with respect to foundation systems on mobilehomes at the earliest possible time, this act must take effect immediately. Moreover, many low-income owners and tenants of mobilehomes are in danger of losing their mobilehome residences because the value of the land on which their mobilehomes are located is disproportionate to its continued use as a mobilehome

site. This act would enable cities and housing authorities to cooperate in the financing of sites for mobilehomes. In order to allow financing in time to prevent loss of mobilehome sites for persons of low income, it is necessary that this act take immediate effect.

CHAPTER 486

An act to amend Sections 1522 and 1596.871 of the Health and Safety Code, relating to care facilities.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 6, 1985]

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 the 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 (e).

(b) In addition to the applicant, 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.

(6) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(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) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the licensing agency not later than 20 days following employment, residence, or initial presence in the community care facility. These fingerprints may be on a card provided by the Department of Social Services or by a local law enforcement office for the purpose of obtaining a permanent set of fingerprints. Upon request of the provider, who shall enclose a self-addressed stamped postcard for this purpose, the department shall verify receipt of the fingerprints.

Within 10 working days of the receipt of these fingerprints, the Department of Social Services shall submit them to the Department of Justice. Within 10 working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall, when necessary as determined by the department, notify the licensee of the criminal convictions, as provided in this subdivision. If new fingerprints are required for processing, the Department of Social Services shall notify the licensee within five working days from the date of notification by the Department of Justice that the fingerprints were illegible. Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a or 273d of the Penal Code, or has been convicted of a felony, the Department of Social Services shall notify the licensee to act immediately to terminate the person's

employment, remove the person from the community care facility, or bar the person from entering the community care facility. The Department of Social Services may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (e). The Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) 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 the 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.

(e) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a community care facility as specified in subdivision (c) 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 or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4 or 264.1 or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

SEC. 2. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) Before issuing a license or special permit to any person to

operate or manage a day care facility, the 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 department for the fingerprinting of an applicant who will serve six or fewer children for a license 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 (e).

(b) In addition to the applicant, 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 child, residing in the facility.

(3) Any person who provides assistance to the children in care in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the children. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to place or supplement staff in providing direct care and supervision of children in care. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt. At the time of employment, all staff and 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.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility.

(6) 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.

(7) This section does not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than 10 days per month, provided that these adults are under constant supervision by adults who meet the requirements of this section.

(8) This section does not apply to employees of school districts operating day care centers under contract with the State Department of Education.

(c) Subsequent to initial licensure, any person specified in

subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the licensing agency not later than 20 days following employment, residence, or initial presence in the child day care facility. Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 243.4, 273a or 273d of the Penal Code, or has been convicted of a felony, the Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the Department of Social Services, act immediately to either (1) terminate the person's employment, remove, and bar the person from the child day care facility, or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) 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 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 Sections 1203.4 and 1203.4a of the Penal Code permitting the 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.

(e) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a child day care facility as specified in subdivision (c) 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 or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a or 273d, or Section 288 or 289 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

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

(g) For the purposes of compliance with this section, the department may designate a child care resource and referral agency or other agency in each county to maintain a file of criminal records clearances, as defined in subdivison (a), for individuals employed on a temporary basis by applicants in that county.

(h) The department shall provide written confirmation to applicants within 30 days after receipt of materials submitted for compliance with this section.

(i) For the purposes of compliance with this section, the department shall permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another when changing employment. The department shall supply the individual with documentation of the clearance within 30 days of a written request for the records.

SEC. 2.5. Section 1596.871 of the Health and Safety Code, as added by Section 9 of Chapter 1615 of the Statutes of 1984, is amended to read:

1596.871. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) Before issuing a license or special permit to any person to operate or manage a day care facility, the 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 department for the fingerprinting of an applicant for a license to serve six or fewer 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 (e).

(b) In addition to the applicant, 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 child, residing in the facility.

(3) Any person who provides care and supervision to the children.

(4) Any staff person or employee who has frequent and routine contact with the children. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to place or supplement staff in providing direct care and supervision of children in care. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt. At the time of employment, all staff and 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.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility.

(6) 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.

(7) This section does not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than 10 days per month, provided that these adults are under constant supervision by adults who meet the requirements of this section.

(8) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal records clearance as part of an application to the state commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission. The State Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the licensing agency not later than 20

days following employment, residence, or initial presence in the child day care facility. Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 243.4, 273a, or 273d of the Penal Code, or has been convicted of a felony, the Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the Department of Social Services, act immediately to either (1) terminate the person's employment, remove and bar the person from the child day care facility, or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) 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 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 Sections 1203.4 and 1203.4a of the Penal Code permitting the 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.

(e) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a child day care facility as specified in subdivision (c) 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 or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, or paragraph (1)

of Section 273a or 273d, or Section 288 or 289 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) The department shall provide written confirmation to applicants within 30 days after receipt of fingerprint cards and fees submitted for compliance with this section.

(g) For the purposes of compliance with this section, the department shall permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another when changing employment. The department shall supply the individual with documentation of the clearance within 30 days of a written request for the records.

SEC. 2.7. Section 2.5 of this bill incorporates amendments to Section 1596.871 of the Health and Safety Code proposed by both this bill and SB 84. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1596.871 of the Health and Safety Code, and (3) this bill is enacted after SB 84, in which case Section 2 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 487

An act to amend Section 128 of the Water Code, relating to flood control.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 128 of the Water Code is amended to read:

128. (a) In times of extraordinary stress and of disaster, resulting from storms and floods, or where damage to watershed lands by forest fires has created an imminent threat of floods and damage by water, mud, or debris upon the occurrence of storms, the department may perform any work required or take any remedial measures necessary to avert, alleviate, repair, or restore damage or destruction to property having a general public and state interest and to protect the health, safety, convenience, and welfare of the general public of the state. In carrying out that work, the department may perform the work itself or through or in cooperation with any other state department or agency, the federal government, or any

political subdivision, city, or district.

(b) This section is intended to supplement the emergency services of the state, and nothing in this section to overrides or supersedes the authority of the Director of the Office of Emergency Services to coordinate and supervise state action, upon a declaration of a state of emergency, under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) or the Natural Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680) of that division).

CHAPTER 488

An act to amend Sections 39001 and 39002 of the Vehicle Code, relating to bicycles.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 39001 of the Vehicle Code is amended to read:

39001. (a) The department shall procure and distribute bicycle license indicia and registration forms to all counties and cities which have or adopt a bicycle licensing ordinance or resolution. Counties and cities which have adopted a bicycle licensing ordinance or resolution shall issue the indicia and registration form distributed by the department to owners of any new bicycle and may issue the indicia and registration form to any owner of a bicycle which complies with Section 39007 upon request of the owner. The department shall charge and collect a fee, not to exceed the cost of procuring and distributing the license indicia and registration form, for each bicycle license indicia and registration form issued. All fees collected pursuant to this section shall be deposited in the State Bicycle License and Registration Fund which is hereby created. There is hereby continuously appropriated from the fund the amounts, as determined by the Director of Finance, needed by the department to defray costs to procure and distribute the bicycle license indicia and registration forms.

(b) The director shall design the bicycle license indicia and registration form and shall establish procedures for the distribution of the indicia and registration form to counties and cities. The indicia shall be adhesive, durable, flexible, and of a size to permit it to be affixed to the front of the seat tube of the bicycle frame. Each indicia shall bear a unique license number and shall be permanently assigned to a bicycle. Each registration form shall comply with Section 39005.

(c) Bicycle licenses shall be renewed uniformly throughout the

state on January 1 of the third year following the year of registration. Renewal of a bicycle license shall be indicated by a supplementary adhesive device affixed parallel to and above or below the indicia with expiration date shown.

SEC. 2. Section 39002 of the Vehicle Code is amended to read:

39002. (a) A city or county, which adopts a bicycle licensing ordinance or resolution, may provide in the ordinance or resolution that no resident shall operate any bicycle, as specified in the ordinance, on any street, road, highway, or other public property within the jurisdiction of the city or county, as the case may be, unless the bicycle is licensed in accordance with this division.

(b) Any bicycle not licensed under this division may be additionally regulated or licensed pursuant to local ordinance or may be licensed upon request of the owner.

(c) It is unlawful for any person to tamper with, destroy, mutilate, or alter any license indicia or registration form, or to remove, alter, or mutilate the serial number, or the identifying marks of a licensing agency's identifying symbol, on any bicycle frame licensed under this division.

CHAPTER 489

An act to amend Section 1916.1 of the Civil Code, relating to usury.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 1916.1 of the Civil Code is amended to read:

1916.1. The restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any loan or forbearance made or arranged by any person licensed as a real estate broker by the State of California, and secured, directly or collaterally, in whole or in part by liens on real property. For purposes of this section, a loan or forbearance is arranged by a person licensed as a real estate broker when the broker (1) acts for compensation or in expectation of compensation for soliciting, negotiating, or arranging the loan for another, (2) acts for compensation or in expectation of compensation for selling, buying, leasing, exchanging, or negotiating the sale, purchase, lease, or exchange of real property or a business for another and (A) arranges a loan to pay all or any portion of the purchase price of, or of an improvement to, that property or business or (B) arranges a forbearance, extension, or refinancing of any loan in connection with that sale, purchase, lease, exchange of, or an improvement to, real property or a business, or (3) arranges or negotiates for another a forbearance, extension, or refinancing of any loan secured by real

property in connection with a past transaction in which the broker had acted for compensation or in expectation of compensation for selling, buying, leasing, exchanging, or negotiating the sale, purchase, lease, or exchange of real property or a business. The term "made or arranged" includes any loan made by a person licensed as a real estate broker as a principal or as an agent for others, and whether or not the person is acting within the course and scope of such license.

CHAPTER 490

An act to amend Sections 44252 and 44256 of the Education Code, relating to teacher credentialing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 44252 of the Education Code is amended to read:

44252. (a) The commission shall establish standards and procedures for the initial issuance and renewal of credentials.

(b) Commencing on February 1, 1983, the Commission on Teacher Credentialing shall not issue initially any credential, permit, certificate, or renewal of an emergency credential to any person to serve in the public schools unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills in the English language as provided in Section 44252.5. However, an emergency credential holder who has passed the basic skills proficiency test shall not be required to repeat the test in order to obtain a renewal of his or her emergency credential. The commission shall exempt from the basic skills proficiency test requirement any of the following persons:

(1) A person credentialed solely for the purpose of teaching adults in an apprenticeship program.

(2) An applicant for an adult education designated subject credential for other than an academic subject.

(3) A person credentialed in another state who is an applicant for employment in a school district in this state who has passed a basic skills proficiency examination which has been developed and administered by the school district offering that person employment. School districts administering a basic skills proficiency examination under this paragraph shall comply with the requirements of subdivision (h) of Section 44830. Such an applicant shall be granted a nonrenewable emergency credential, valid for not longer than one year, pending fulfillment of the basic skills proficiency requirement

pursuant to Section 44261.5. The commission shall report to the Legislature no later than January 1, 1984, on the number of teachers receiving emergency credentials without fulfilling the basic skills proficiency requirement, the districts in which these teachers are employed, the number of teachers granted clear credentials after the expiration of an emergency credential granted under these conditions, and a comparison of success rate of these teachers on the basic skills test with the success rate of the general pool of credential applicants.

(4) An applicant for a child care center permit or a permit authorizing service in a development center for the handicapped, so long as the holder of the permit is not required to have a baccalaureate degree.

(5) The holder of a credential, permit, or certificate to teach, other than an emergency credential, who seeks an additional authorization to teach.

(6) An applicant for a credential to provide service in the health profession.

(c) By December 31, 1982, the Superintendent of Public Instruction shall adopt an appropriate state test to measure proficiency in these basic skills. In adopting the test, the superintendent shall seek assistance from the commission and an advisory board. A majority of the members of the advisory board shall be classroom teachers. The board shall also include representatives of local school boards, school administrators, parents, and postsecondary institutions.

The superintendent shall adopt any normed test that the superintendent determines will sufficiently test basic skills for purposes of this section.

The superintendent, in conjunction with the commission and approved teacher training institutions, shall take steps necessary to insure the effective implementation of this provision.

(d) Nothing in this section shall be construed as requiring the holders of, or applicants for, a designated subjects special subjects credential or vocational designated subject credential to pass the state basic skills proficiency test, unless the requirements for the specific credential required the possession of a baccalaureate degree. The governing board of each school district, or each governing board of a consortium of school districts, or each governing board involved in a joint powers agreement, which employs a holder of a designated subjects special subjects credential or vocational designated subject credential shall establish its own basic skills proficiency criteria for the holders of these credentials and shall arrange for those individuals to be assessed. The basic skills proficiency criteria established by the governing board shall be at least equivalent to the test required by the district, or in the case of a consortium or a joint powers agreement, by any of the participating districts, for graduation from high school. The governing board or boards may charge a fee to individuals being tested to cover the costs of the test,

including the costs of developing, administering, and grading the test.

(e) The commission shall compile data regarding the rate of passing the state basic skills proficiency test by persons who have been trained in various institutions of higher education. The data shall be available to members of the public, including to persons who intend to enroll in teacher education programs.

SEC. 2. Section 44256 of the Education Code is amended to read:

44256. Authorization for teaching credentials shall be of four basic kinds, as defined below:

(a) "Single subject instruction" means the practice of assignment of teachers and students to specified subject matter courses, as is commonly practiced in California high schools and most California junior high schools. The holder of a single subject teaching credential or a standard secondary credential who has completed 20 semester hours of coursework or 10 semester hours of upper division or graduate coursework approved by the commission at an accredited institution in any subject commonly taught in grades 7 to 12, other than the subject for which he or she is already certificated to teach, shall be eligible to have this subject appear on the credential as an authorization to teach this subject. The commission, by regulation, may require that evidence of additional competence is a condition for instruction in particular subjects, including, but not limited to, foreign languages. The commission may establish and implement alternative requirements for additional authorizations to the single subject credential on the basis of specialized needs.

(b) "Multiple subject instruction" means the practice of assignment of teachers and students for multiple subject matter instruction, as is commonly practiced in California elementary schools and as is commonly practiced in early childhood education.

The holder of a multiple subject teaching credential or a standard elementary credential who has completed 20 semester hours of coursework or 10 semester hours of upper division or graduate coursework approved by the commission at an accredited institution in any subject commonly taught in grades 6, 7, 8, and 9 shall be eligible to have that subject appear on the credential as authorization to teach the subject in departmentalized classes in grades 6, 7, 8, and 9. The holder of a multiple subject teaching credential or a standard elementary credential shall be authorized to teach any subject in departmentalized classes to a given class or group of students below grade 9, provided that the teacher has completed at least eight semester units, or four upper division or graduate units, of coursework at an accredited institution in each subject to be taught. The authorization shall be with the teacher's consent and shall be restricted to a partial assignment. However, the commission, by regulation, may provide that evidence of additional competence is necessary for instruction in particular subjects, including, but not limited to, foreign languages. The commission may establish and implement alternative requirements for additional authorizations to

the multiple subject credential on the basis of specialized needs.

(c) "Specialist instruction" means any specialty requiring advanced preparation or special competence including, but not limited to, reading specialist, mathematics specialist, specialist in special education, or early childhood education, and such other specialties as the commission may determine.

(d) "Designated subjects" means the practice of assignment of teachers and students to designated technical, trade, or vocational courses which courses may be part of a program of trade, technical, or vocational education.

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

In order to authorize the holders of single subject, multiple subject, and standard elementary and secondary teaching credentials meeting the coursework requirements prescribed by this act to teach in the subjects authorized for their credentials by this act in the 1985-86 school year, it is necessary that this act take effect immediately.

CHAPTER 491

An act to amend Sections 9302, 9304, 9305, 9307, 9308, 9310, 9312, and 9316 of the Business and Professions Code, relating to polygraph examiners.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 9302 of the Business and Professions Code is amended to read:

9302. As used in this chapter, unless the context requires otherwise, the following terms have the following meanings:

(a) "Director" means the Director of Consumer Affairs.

(b) "Board" means the Polygraph Examiners Board.

(c) "Person" means any individual, firm, association, partnership, or corporation.

(d) "Intern" means a person licensed under this chapter to conduct polygraph examinations in an internship.

(e) "Internship" means the study by an intern under the supervision of a general licensed examiner in accordance with the standard for instruction of interns established by the board pursuant to subdivision (h) of Section 9304.

(f) "Polygraph examiner" means a person who purports to be able to determine the truthfulness of statements through the use of a

polygraph instrument.

(g) "Polygraph instrument" means an instrument capable of at least recording visually, permanently, and simultaneously the respiratory, cardiovascular, and galvanic skin resistance patterns.

(h) "Polygraph examination" means the procedure by which a polygraph examiner renders an opinion as to the veracity of statements made by an examinee.

(i) "Secretary" means that member of the Polygraph Examiners Board selected by the board to act as secretary.

(j) "Examinee" means any natural person who voluntarily takes a polygraph examination.

SEC. 2. Section 9304 of the Business and Professions Code is amended to read:

9304. The board shall administer and enforce the provisions of this chapter.

(a) There is in the Department of Consumer Affairs a Polygraph Examiners Board. The Polygraph Examiners Board shall consist of a total of five members, two of whom shall be polygraph examiners and three of whom shall be public members. Each member shall be a citizen of the United States and a resident of this state for at least two consecutive years prior to appointment. The two polygraph examiners shall have been engaged for a period of two consecutive years as polygraph examiners prior to appointment to the board. The polygraph examiners initially appointed to the board shall become licensed pursuant to this chapter by January 1, 1986, or shall automatically forfeit office, and each polygraph examiner appointed to the board thereafter shall be licensed pursuant to this chapter. One polygraph examiner member shall be from a governmental agency and one polygraph examiner member shall be from the private sector.

(b) The Governor shall appoint the two polygraph examiner members and one public member. The Senate Rules Committee shall appoint one public member. The Speaker of the Assembly shall appoint one public member.

(c) Members of the board shall serve for a term of four years. No person shall serve more than two consecutive terms.

(d) The board may adopt, repeal, or amend those regulations as may be reasonably necessary and expedient to implement this chapter and to govern the conduct of licensees and providers of polygraph training. The regulations shall be adopted, amended, or repealed in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Each member of the board shall receive a per diem and expenses as provided in Section 103.

(f) The vote of a majority of the board members is sufficient for passage of any business or proposal which comes before the board.

(g) The board shall establish standards for approval of training courses for polygraph examiners.

(h) The board shall establish standards for the instruction of

interns.

(i) The board shall prescribe form and content of the licensing examinations.

(j) All proceedings for the denial, suspension, or revocation of a license shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 3. Section 9305 of the Business and Professions Code is amended to read:

9305. There shall be two types of polygraph examiner licenses:

(a) The intern license, which permits the holder to conduct polygraph examinations in an internship under the supervision of a qualified person holding a valid, unexpired general license. The board may, by regulation, establish standards for the qualification of supervisors.

(b) The general license which permits the holder to administer polygraph examinations, other than in an internship.

SEC 4. Section 9307 of the Business and Professions Code is amended to read:

9307. Any applicant for a license as a general polygraph examiner shall comply with all of the following:

(a) Have a high school diploma or equivalent.

(b) Have successfully completed a polygraph examiner's course approved by the board.

(c) Have completed not less than 200 polygraph examinations, of which 100 shall be "specific" examinations.

(d) Have successfully completed an examination administered by the board.

Prior to June 30, 1986, any individual meeting the provisions of subdivisions (a), (b), and (c) shall be issued a license unless grounds exist for the denial of the license. Persons issued a license pursuant to this paragraph shall be required to successfully pass the examination administered by the board within 12 months of the date of issuance of the license.

Notwithstanding subdivision (j) of Section 9304, licenses issued pursuant to the preceding paragraph shall be automatically revoked, where persons holding the licenses have not passed the required examination.

SEC. 5. Section 9308 of the Business and Professions Code is amended to read:

9308. (a) Any person who is not a resident of this state shall include with his or her application for a general license, or renewal thereof, an irrevocable written consent permitting the board to act as his or her agent for the service of all legal process in this state.

(b) In any action in a court of competent jurisdiction in this state, service of process may be made upon a polygraph examiner who does not reside in this state by mailing two registered copies of the process to the board. The board shall retain one copy of the process

in the records and immediately send, by certified or registered mail, the other copy to the polygraph examiner at the most current address as indicated by the records of the board.

SEC. 6. Section 9310 of the Business and Professions Code is amended to read:

9310. A general license or an intern license shall be valid for a period of two years and shall be renewed by the board, upon evidence that the license holder has successfully completed 24 hours of polygraph training of the kind approved by the board within two years prior to the expiration of the holder's license. No intern license shall be renewed more than once.

SEC. 7. Section 9312 of the Business and Professions Code is amended to read:

9312. A person whose license has expired while he or she was an employee of the United States government or while he or she was on extended active duty as a member of the Armed Forces of the United States or on extended active duty as a member of the National Guard of this state may obtain a renewal license, without examination, upon application thereof within two years after the date of his or her termination of the employment or active duty, upon compliance by the person with the following:

(a) Proof of attendance of at least 24 hours of polygraph training approved by the board within the previous two years.

(b) Payment of the required fee for the renewal.

SEC. 8. Section 9316 of the Business and Professions Code is amended to read:

9316. Except as provided in Section 432.2 of the Labor Code, no examination shall be conducted or administered by a polygraph examiner unless the polygraph examiner makes known to the examinee each of the following:

(a) That the taking of the examination is a voluntary act on his or her part.

(b) That he or she may decline to take the examination and the declination shall not be construed to disadvantage him or her in any manner.

(c) The subject matter, or area of inquiry and the questions to be asked during the examination. These questions shall be read aloud to the examinee prior to the instrumental examination. The person to be examined may be asked to sign a written statement acknowledging that the requirements of this section have been complied with by the polygraph examiner and may be asked to sign a written statement consenting to the disclosure of the examination results.

CHAPTER 492

An act to amend Section 2416 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 6, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 2416 of the Vehicle Code is amended to read:

2416. (a) The Commissioner of the California Highway Patrol may issue authorized emergency vehicle permits only for the following vehicles, and then only upon a finding in each case that the vehicle is used in responding to emergency calls for fire or law enforcement or for the immediate preservation of life or property or for the apprehension of law violators:

(1) Any vehicle maintained in whole or in part by the state, a county or a city and privately owned and operated by a constable, deputy constable, marshal, deputy marshal, or person who is a member of, and who receives salary from, and is regularly employed by, a police department or sheriff's department, provided the state, county or city does not furnish to such person a publicly owned authorized emergency vehicle.

(2) Any vehicle owned and operated by a public utility, used primarily to accomplish emergency repairs to utility facilities or used primarily by railroad policemen, who are commissioned by the Governor, in the performance of their duties.

(3) Firefighting or rescue equipment designed and operated exclusively as such.

(4) Any vehicle operated by the chief, assistant chief, or one other uniformed person designated by the chief of a fire department organized as provided in the Health and Safety Code or the Government Code or pursuant to special act of the Legislature.

(5) Any vehicle of an air pollution control district used to enforce provisions of law relating to air pollution from motor vehicles.

(6) Any vehicle operated by the chief of any fire department established on any base of the armed forces of the United States.

(7) Any vehicle owned and operated by any fire company organized pursuant to Part 4 (commencing with Section 14825) of the Health and Safety Code.

(b) Privately owned ambulances may be operated as emergency vehicles only under a license issued in accordance with Chapter 2.5 (commencing with Section 2500).

(c) Vehicles of a privately owned ambulance operator licensed in accordance with Chapter 2.5 (commencing with Section 2500) used exclusively to transport medical supplies, lifesaving equipment, or personnel to the scene of an emergency when a request for medical

supplies, lifesaving equipment, or personnel has been made by any person or public agency responsible for providing emergency medical transportation may be operated as emergency vehicles. For these purposes, these vehicles shall display a sign or lettering not less than two and one-half inches in height, in a color providing a sharp contrast to its background, on each side showing the name of the ambulance operator.

(d) The commissioner may adopt and enforce regulations to implement this section.

(e) Violation of any regulation adopted by the commissioner pursuant to this section is a misdemeanor.

CHAPTER 493

An act to amend Section 17720 of the Education Code, relating to schools, and declaring the urgency therof, to take effect immediately.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1 Section 17720 of the Education Code is amended to read:

17720. (a) Notwithstanding other provisions of this chapter, in order to expedite a total school facility a school district may first apply for a project which includes only the advance purchase of the land and preparation of plans and specifications. The acquisition of the site and the plans preparation shall be based on the justification documents for the total school facility. The school district may apply for a subsequent project or projects to complete the total school facility.

(b) Any application filed pursuant to this section shall be subject to all provisions of this chapter generally applicable to project applications, to the extent not in conflict with this section.

(c) Any estimate of average daily attendance made by an applicant district for the purpose of justifying an application pursuant to this section may be made for up to and including two years longer than the period of time permitted by Section 17740.

(d) Beginning in the fifth fiscal year following the fiscal year in which any apportionment is made to a school district pursuant to this section, the district shall repay the apportionment, with interest, in 10 equal annual installments, unless and until the district has qualified for an apportionment pursuant to an application for utilization of the site under this chapter. These repayments shall constitute rent, and shall be in addition to any other rents or fees for which the district is obligated under Section 17732. The board may

waive any obligation of repayment under this subdivision to the extent that the board finds that the obligation will result in an extreme hardship upon the district.

(e) The school district may apply for a subsequent project or projects to complete the total school facility.

SEC. 2. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 3. 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. 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 that certain procedures for the application by a school district for funding of school facilities may be revised prior to the 1985–86 school year, it is necessary that this act take effect immediately.

CHAPTER 494

An act to amend Section 14528.5 of the Government Code, relating to transportation.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 14528.5 of the Government Code is amended to read:

14528.5. (a) To resolve local transportation problems resulting from the infeasibility of a planned state transportation facility on State Highway Route 238, the city or county in which the planned facility was to be located, or the transportation planning commission having jurisdiction over the city or county, may develop and file with the commission a local alternative transportation improvement program that addresses transportation problems and opportunities in the county which was to be served by the planned facility.

(b) The department may be requested to develop the local alternative transportation improvement program. In such a case, the local program shall be submitted as a part of the proposed state

transportation improvement program under Section 14526.

(c) Prior to filing the local alternative transportation improvement program with the commission, the local program shall be submitted for review by the transportation planning agency and the department in the same manner as the regional transportation improvement program. If the transportation planning agency or the department does not adopt the local program as a part of the regional transportation improvement program or the proposed state transportation improvement program, the entity that developed and filed the local program, and the transportation planning agency if it has approved the local program, may request the commission to include the local program in the state transportation improvement program.

(d) The commission shall have the final authority regarding the content and approval of the local alternative transportation improvement program. The local program, if approved by the commission, shall be included in the state transportation improvement program adopted by the commission pursuant to Section 14529. The commission shall not approve any local alternative transportation improvement program submitted under this section after January 1, 1988.

(e) At the time the commission approved the local alternative transportation improvement program, the commission shall authorize the department to sell, at the prevailing fair market price, the excess properties acquired for the planned state transportation facilities. However, any properties required for the implementation of a local alternative transportation improvement project shall not be sold. Article 8.5 (commencing with Section 54235) of Chapter 5 of Part 1 of Division 2 of Title 5 does not apply to the sale of excess property pursuant to this section. All proceeds from the sale of the excess properties, less any reimbursements due to the federal government and all costs incurred in the sale of those excess properties, shall be allocated by the commission to fund the approved local program and shall not be subject to Sections 188 and 188.8. The proceeds shall be used only for highway purposes. The estimated amount of the proceeds shall be included in the adopted regional transportation improvement program and the state transportation improvement program.

(f) This section does not apply to those highways that are in the National System of Interstate and Defense Highways.

(g) This section applies only to State Highway Route 238.

CHAPTER 495

An act to amend Section 22455 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 22455 of the Vehicle Code is amended to read:

22455. (a) The driver of any commercial vehicle engaged in vending upon a street may vend products on a street in a residence district only after bringing the vehicle to a complete stop and lawfully parked adjacent to the curb, consistent with the requirements of Chapter 9 (commencing with Section 22500) and local ordinances adopted pursuant thereto.

(b) A local authority may, by ordinance or resolution, adopt additional requirements for the public safety regulating any type of vending from vehicles upon any street.

CHAPTER 496

An act to amend Section 1767.3 of the Welfare and Institutions Code, relating to the Youth Authority.

[Approved by Governor September 6, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 1767.3 of the Welfare and Institutions Code is amended to read:

1767.3. (a) The Youthful Offender Parole Board may suspend, cancel, or revoke any parole and may order returned to custody of the department any person committed to it who is upon parole.

(b) The written order of the chairman of the board is a sufficient warrant for any peace officer to return to the custody of the department any person committed to it who is upon parole or who has been permitted his or her liberty upon condition.

(c) The written order of the Director of the Department of the Youth Authority is a sufficient warrant for any peace officer to return to the custody of the department, pending further proceedings before the Youthful Offender Parole Board, any person committed to the department who is upon parole or who has been permitted his or her liberty upon condition, or for any peace officer to return to the custody of the department any person committed to it who has

escaped from the custody of the department or from any institution in which he or she has been placed by the department.

(d) All peace officers shall execute any such orders in like manner as a felony warrant.

CHAPTER 497

An act to amend Section 51.7 of the Civil Code, relating to civil rights.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 51.7 of the Civil Code is amended to read:

51.7. (a) All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute. The identification in this subdivision of particular bases of discrimination is illustrative rather than restrictive.

(b) As used in this section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality.

CHAPTER 498

An act to amend Section 84102 of, and to add Sections 82048.5, 84106, and 84107 to, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 82048.5 is added to the Government Code, to read:

82048.5. (a) "Sponsored committee" means a committee, other than a controlled committee, which has one or more sponsors. Any person, except a candidate, proponent, or other individual, may sponsor a committee.

(b) A person sponsors a committee if any of the following apply:

(1) The committee receives all or nearly all of its contributions from the person or its members, officers, employees, or shareholders.

(2) The person collects contributions for the committee by use of

payroll deductions or dues from its members, officers, or employees.

(3) The person alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

(4) The person, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

SEC. 2. Section 84102 of the Government Code is amended to read:

84102. The statement of organization required by Section 84101 shall include:

(a) The name, street address and telephone number, if any, of the committee;

(b) The name, street address and telephone number of each person, if any, with which the committee is affiliated or connected;

(c) The full name, street address and telephone number, if any, of the treasurer and other principal officers;

(d) The full name and office sought by any candidate and the title and ballot number, if any, of any measure, which the committee supports or opposes as its primary activity. A committee which does not support or oppose one or more candidates or ballot measures as its primary activity shall provide a brief description of its political activities, including whether it supports or opposes candidates or measures and whether such candidates or measures have common characteristics such as a political party affiliation;

(e) A statement whether the committee is independent or controlled, and if it is controlled, the name of each candidate or committee by which it is controlled or with which it acts jointly;

(f) The disposition of surplus funds which will be made in the event of dissolution;

(g) Such other information as shall be required by the rules or regulations of the commission consistent with the purposes and provisions of this chapter.

(h) In the case of a sponsored committee, the name of its sponsor. Whenever a committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, a term identifying that industry or group.

SEC. 3. Section 84106 is added to the Government Code, to read:

84106. (a) Whenever identification of a sponsored committee is required by law, the identification shall include the full name of the committee as contained in its statement of organization.

(b) A sponsored committee shall use only one name in its statement of organization.

SEC. 4. Section 84107 is added to the Government Code, to read:

84107. Within 30 days of the designation of the numerical order of propositions appearing on the ballot, any committee which has as its principal activity the support of or opposition to a ballot measure, shall, if supporting the measure, include the statement, "a committee for Proposition _____," or, if opposing the measure, include the

statement, "a committee against Proposition _____," in any reference to the committee required by law.

SEC. 5. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 499

An act to add Section 1964 to the Labor Code, relating to volunteer firefighters.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 1964 is added to the Labor Code, to read:

1964. (a) The governing body of any regularly organized volunteer fire department may, but shall not be required to, adopt regulations governing the removal of volunteer firefighters from the volunteer fire department.

(b) In the event that the governing body chooses to adopt these regulations, it shall have the discretion, after soliciting comments from the membership of the volunteer fire department, to adopt any reasonable regulations which may, but need not, include some or all of the following elements, in addition to other provisions:

(1) Members of the department shall not be removed from membership, except for incompetence, misconduct, or failure to comply with the rules and regulations of the department. Removals, except for absenteeism at fires or meetings, shall be made only after a hearing with due notice, with stated charges, and with the right of the member to a review.

(2) The charges shall be in writing and may be made by the governing body. The burden of proving incompetency or misconduct shall be on the person alleging it.

(3) Hearings on the charges shall be held by the officer or body having the power to remove the person, or by a deputy or employee of the officer or body designated in writing for that purpose.

In case a deputy or other employee is so designated, he or she shall for the purpose of the hearing be vested with all the powers of the officer or body, and shall make a record of the hearing which shall be referred to the officer or body for review with his or her recommendations.

(4) The notice of the hearing shall specify the time and place of the hearing and state the body or person before whom the hearing will be held. Notice and a copy of the charges shall be served personally upon the accused member at least 10 days but not more

than 30 days before the date of the hearing.

(5) A stenographer may be employed for the purpose of taking testimony at the hearing.

(6) The officer or body having the power to remove the person may suspend the person after charges are filed and pending disposition of the charges, and after the hearing may remove the person or may suspend him or her for a period of time not to exceed one year.

(7) Volunteer firefighters shall serve a probationary period of a length to be specified by the governing board, not to exceed one year. A probationary volunteer firefighter may be removed from membership without specification of cause. The decision to remove a probationer shall not require notice or a hearing.

(c) The requirement of subdivision (b) to solicit comments from the membership shall not be deemed to create a duty to meet and confer with the membership.

(d) In the event that a governing body of a regularly organized volunteer fire department adopts regulations governing removal of volunteer firefighters, the regulations shall not be interpreted as creating a property right in the volunteer firefighter job or position.

(e) When regulations have been adopted, and where the regulations provide for a hearing and decision by the governing body, a volunteer firefighter may commence a proceeding in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure to set aside the decision of the governing body on the ground that the decision is not supported by substantial evidence. The court shall not employ its independent judgment in reviewing the evidence. The proceeding shall be commenced within 90 days from the date that the governing body renders its decision. This remedy shall be the exclusive method for review of the governing body's decision.

CHAPTER 500

An act to add Section 66903.1 to, and to repeal Section 66903.3 of, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. In enacting this act, the Legislature hereby finds and declares the following:

(a) Underrepresentation of ethnic minorities and women persists within certain areas of employment at the California State University and the University of California.

(b) The Legislature and the Governor must be better informed of specific results of affirmative action hiring programs of the California State University, the University of California, and the public community colleges.

SEC. 2. Section 66903.1 is added to the Education Code, to read:

66903.1. The commission shall report to the Legislature and the Governor on March 1, 1986, and every two years thereafter until, and including, 1990, on the representation and utilization of ethnic minorities and women among academic, administrative, and other employees at the California State University, the University of California, and the public community colleges. To prepare this report, the commission shall collect data from each of these segments of public postsecondary education. The format for this data shall be the higher education staff information form required biennially from all institutions of higher education by the Federal Equal Employment Opportunity Commission, the collection of which is coordinated by the California Postsecondary Education Commission.

(a) The higher education staff information form includes all the following types of data:

(1) The number of full-time employees by job categories, ethnicity, sex, and salary ranges.

(2) The number of full-time faculty by ethnicity, sex, rank, and tenure.

(3) The number of part-time employees by job categories (including tenured, nontenured or tenure track, and other nontenured academic employees), ethnicity, and sex.

(4) The number of full-time new hires by job categories (including tenured, nontenured or tenure track, and other nontenured academic employees), ethnicity, and sex.

(b) In addition to the above, the segments shall submit to the commission all the following:

(1) Promotion and separation data for faculty and staff employees by ethnicity and sex for each of the two-year time periods beginning with 1977 to 1979.

(2) Narrative evaluation examining patterns of underutilization of women and minority employees among different job categories compared with the availability of qualified women and minorities for different job categories.

(3) Narrative evaluation examining specific results of affirmative action programs in reducing underutilization of women and minorities.

(4) Narrative evaluation of both strengths and inadequacies of current affirmative action programs, including inadequacies resulting from budgetary constraints.

(c) For purposes of this section, minorities and ethnic minorities shall include those persons defined as such by rules and regulations of the Federal Equal Employment Opportunity Commission.

This section shall remain in effect until January 1, 1991, and as of that date is repealed.

SEC. 3. Section 66903.3 of the Education Code is repealed.

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 that the California Postsecondary Commission may be authorized to continue its collection of data regarding the employment, classification, and compensation of ethnic minorities and women by the public institutions of higher education of this state, it is necessary that this act take effect immediately.

CHAPTER 501

An act to amend Section 556.1 of the Insurance Code, relating to insurance claim forms.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 556.1 of the Insurance Code is amended to read:

556.1. Any insurer who, in connection with any insurance contract or provision of contract described in Section 108, prints, reproduces, or furnishes a form to any person upon which such person gives notice to such insurer or makes claim against it by reason of accident, injury, death, or other noticed or claimed loss, shall cause to be printed or displayed verbatim thereon, or on a rider attached thereto, in comparative prominence with other content, spacing and format thereof, the provisions of subdivisions (a) and (b) of Section 556. Such reproduced provisions of subdivisions (a) and (b) of Section 556 shall be preceded by the words: "For your protection California law requires the following to appear on this form" or other explanatory words of similar meaning.

CHAPTER 502

An act to amend Sections 103 and 317 of the Business and Professions Code, relating to the Consumer Advisory Council, and making an appropriation therefor.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985.]

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

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

103. Each member of a board, commission, or committee created in the various chapters of Division 2 (commencing with Section 500) and Division 3 (commencing with Section 5000), in Article 3.5 (commencing with Section 316) of Chapter 4, and in Chapter 2 (commencing with Section 18600) and Chapter 3 (commencing with Section 19000) of Division 8, shall receive the moneys specified in this section when authorized by the respective provisions.

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

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

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

SEC. 2. Section 317 of the Business and Professions Code is amended to read:

317. (a) The Governor shall, on or before July 15, 1971, make the required appointments to the council. Thereafter, each appointment shall be for a four-year term.

(b) No member shall serve more than two consecutive terms.

(c) The members of the council shall receive per diem and expenses as provided in Section 103. All meetings of the council shall be open and public, and all persons shall be permitted to attend any meeting of the council.

SEC. 3. The sum of one thousand four hundred dollars ($1,400) is hereby appropriated from the General Fund to, and in augmentation of, Item Number 1650-088-001 of the Budget Act of 1985. This amount shall be used to pay per diem and expenses for members of the Consumer Advisory Council, pursuant to Sections 103 and 317 of the Business and Professions Code, for the period from January 1, 1986, through June 30, 1986.

CHAPTER 503

An act to amend Section 9390.1, and to amend and repeal Section 9110, of the Welfare and Institutions Code, relating to long-term care.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 9110 of the Welfare and Institutions Code, as added by Section 4 of Chapter 912 of the Statutes of 1980, is repealed.

SEC. 2. Section 9110 of the Welfare and Institutions Code, as added by Section 11 of Chapter 1453 of the Statutes of 1982, is amended to read:

9110. "Long-term care" means a coordinated continuum of preventive, diagnostic, therapeutic, rehabilitative, supportive, and maintenance services that address the health, social, and personal needs of individuals who have restricted self-care capabilities. Services shall be designed to recognize the positive capabilities of the individual and maximize the potential for the optimum level of physical, social, and psychological independence in the least restrictive environment and emphasis shall be placed on seeking alternative services other than institutionalization. Services may be provided by formal or informal support systems and may be continuous or intermittent. "Long-term care" includes licensed residential care in a community care facility or residential facility for the elderly.

Notwithstanding Section 49 of Chapter 1453 of the Statutes of 1982, this section shall become operative on January 1, 1986.

SEC. 3. Section 9390.1 of the Welfare and Institutions Code is amended to read:

9390.1. As used in this chapter:

(a) "Department" means the Department of Aging.

(b) "Director" means the Director of the Department of Aging.

(c) "Long-term care" means a coordinated continuum of preventive, diagnostic, therapeutic, rehabilitative, supportive, and maintenance services that address the health, social, and personal needs of individuals who have restricted self-care capabilities. Services shall be designed to recognize the positive capabilities of the individual and maximize the potential for the optimum level of physical, social, and psychological independence in the least restrictive environment, and emphasis shall be placed on seeking alternative services other than institutionalization. Services may be provided by formal or informal support systems and may be continuous or intermittent.

"Long-term care" includes licensed residential care in a community care facility or residential facility for the elderly.

(d) "Community based resources" include, but are not limited to, information and referral services, nutrition programs, home delivered meals, housing assistance, home modifications, special transportation services, senior companion programs, respite care, adult day health care, multipurpose senior services programs,

in-home supportive services, special circumstances, inpatient and outpatient medical rehabilitation programs, home health and independent living training programs, ombudsman services, case management services, and hospice services.

(e) "Preadmission screening" means personal assessment of an applicant for placement in a skilled or intermediate care facility, prior to admission, to determine the individual's ability to remain in the community with the support of community-based services.

CHAPTER 504

An act to amend Section 4635 of the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 4635 of the Welfare and Institutions Code is amended to read:

4635. If any regional center finds that it is unable to comply with the requirements of this division or its contract with the state, the regional center shall be responsible for informing the department immediately that it does not expect to fulfill its contractual obligations. Failure to provide the notification to the department in a timely manner shall constitute grounds for possible revocation or nonrenewal of the contract. If any regional center makes a decision to cancel or not renew its contract with the department, the regional center shall give a minimum of 90 days' written notice of its decision.

If the department finds that any regional center is not fulfilling its contractual obligations, the department shall make reasonable efforts to resolve the problem with the cooperation of the regional center, including the provision of technical assistance to the regional center or renegotiation of the contract.

If the department finds that any regional center continues to fail in fulfilling its contractual obligations after reasonable efforts have been made, and finds that other regional centers are able to fulfill similar obligations under similar contracts, and finds that it will be in the best interest of the persons being served by the regional center, the department shall take steps to terminate the contract and to negotiate with another governing board to provide regional center services in the area. These findings may also constitute grounds for possible nonrenewal of the contract in addition to, or in lieu of, other grounds.

If the department makes a decision to cancel or not renew its contract with the regional center, the department shall give a minimum of 90 days' written notice of its decision, unless it has

publication of a notice in a newspaper.

CHAPTER 507

An act to repeal Sections 19051, 19052, and 19054 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 19051 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 19052 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 19054 of the Welfare and Institutions Code is repealed.

CHAPTER 508

An act to amend Sections 10225 and 10252 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 10225 of the Health and Safety Code is amended to read:

10225. The physician last in attendance on a deceased person shall state on the certificate of death the disease or condition directly leading to death, antecedent causes, other significant conditions contributing to death and such other medical and health section data as may be required on the certificate; he or she shall also specify the time in attendance, the time he or she last saw the deceased person alive, and the hour and day on which death occurred, except in deaths required to be investigated by the coroner. The physician shall specifically indicate the existence of any cancer as defined in subdivision (e) of Section 211.3, of which the physician has actual knowledge.

SEC. 2. Section 10252 of the Health and Safety Code is amended to read:

10252. The coroner shall state on the certificate of death the disease or condition directly leading to death, antecedent causes,

other significant conditions contributing to death and such other medical and health section data as may be required on the certificate, and the hour and day on which death occurred. The coroner shall specifically indicate the existence of any cancer, as defined in subdivision (e) of Section 211.3, of which he or she has actual knowledge.

The coroner shall within three days after examining the body deliver the death certificate to the attending funeral director.

SEC. 3. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

SEC. 4. 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. 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 obtain data relating to causes of cancer at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 509

An act to amend Sections 41954 and 41960.2 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 41954 of the Health and Safety Code is amended to read:

41954. (a) The state board shall adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, including storage and transfer operations, with performance standards which are reasonable and necessary to achieve or maintain any applicable ambient air quality standard.

(b) The state board shall, after public hearing, adopt additional performance standards which are reasonable and necessary to ensure that systems for the control of gasoline vapors resulting from motor vehicle fueling operations do not cause excessive gasoline

liquid spillage when used in a proper manner. To the maximum extent practicable, the additional performance standards shall allow flexibility in the design of gasoline vapor recovery systems and their components.

(c) The state board shall certify any gasoline vapor control system, upon its determination that the system, if properly installed and maintained, will meet the requirements of subdivision (a). The state board shall enumerate the specifications used for issuing such certification. After a system has been certified, if circumstances beyond control of the state board cause the system to no longer meet the required specifications, the certification may be revoked or modified.

(d) The state board may test, or contract for testing, gasoline vapor control systems in order to certify them.

(e) The state board shall charge a reasonable fee for certification, not to exceed its estimated costs therefor. Payment of the fee shall be a condition of certification.

(f) No person shall offer for sale, sell, or install a new or rebuilt gasoline vapor control system, or component parts thereof, unless the system has been certified by the state board and is clearly identified by a permanent identification of the certified manufacturer or rebuilder.

(g) To the extent authorized by other provisions of law, any district may adopt stricter procedures and performance standards than those adopted by the state board pursuant to subdivision (a).

(h) With respect to those vapor recovery systems subject to certification by the state board, there shall be no criminal or civil proceedings commenced or maintained for failure to comply with any statute, rule, or regulation requiring a specified vapor recovery efficiency if the vapor control equipment which has been installed to comply with applicable vapor recovery requirements has been:

(1) Certified by the state board at an efficiency equal to or greater than the efficiency required by applicable statutes, rules, and regulations; and

(2) Installed, operated, and maintained in accordance with the instructions of the equipment manufacturer.

(i) Notwithstanding subdivision (g), until the time that more than one system, including at least one balance-type system, is certified under the standards adopted by the state board pursuant to subdivision (c) and by the Division of Measurement Standards pursuant to subdivision (c) of Section 41956, gasoline vapor control systems which have been installed and are operating in compliance with the requirements of the Bay Area Air Quality Management District shall be exempt from any requirements for retrofitting those systems with new or additional equipment for the purpose of achieving greater vapor recovery efficiency. All necessary replacement parts shall be those certified by the state board. In all other areas of the state, the state board may implement its regulations adopted pursuant to subdivision (a).

SEC. 2. Section 41960.2 of the Health and Safety Code is amended to read:

41960.2. (a) All installed systems for the control of gasoline vapors resulting from motor vehicle fueling operations shall be maintained in good working order in accordance with the manufacturer's specifications of the system certified pursuant to Section 41954.

(b) Whenever a gasoline vapor recovery control system is repaired or rebuilt by someone other than the original manufacturer or its authorized representative, the person shall permanently affix a plate to the vapor recovery control system which identifies the repairer or rebuilder and specifies that only certified equipment was used. In addition, a rebuilder of a vapor control system shall remove any identification of the original manufacturer where the removal does not affect the continued safety or performance of the vapor control system.

(c) The state board shall identify equipment defects in systems for the control of gasoline vapors resulting from motor vehicle fueling operations which substantially impair the effectiveness of the systems in reducing air contaminants.

(d) When a district determines that a component contains a defect specified pursuant to subdivision (b), the district shall mark the component "Out of Order". No person shall use or permit the use of the component until the component has been repaired, replaced, or adjusted, as necessary, and the district has reinspected the component or has authorized use of the component pending reinspection.

(e) Where a district determines that a component is not in good working order but does not contain a defect specified pursuant to subdivision (b), the district shall provide the operator with a notice specifying the basis on which the component is not in good working order. If, within seven days, the operator provides the district with adequate evidence that the component is in good working order, the operator shall not be subject to liability under this division.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 510

An act to amend Sections 11501 and 11502 of, and to add Section 11504 to, the Penal Code, and to repeal Section 3 of Chapter 116 of the Statutes of 1982, relating to criminal justice, and making an appropriation therefor.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 11501 of the Penal Code is amended to read:

11501. (a) There is hereby established in the Office of Criminal Justice Planning, a program of financial assistance to provide for statewide programs of education, training, and research for local public prosecutors and public defenders. All funds made available to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and distributed by the executive director of the office.

(b) The Executive Director of the Office of Criminal Justice Planning is authorized to allocate and award funds to public agencies or private nonprofit organizations for purposes of establishing statewide programs of education, training, and research for public prosecutors and public defenders, which programs meet criteria established pursuant to Section 11502.

(c) Annually, the executive director shall submit a report to the Legislature describing the operation and accomplishments of the statewide programs authorized by this title.

SEC. 2. Section 11502 of the Penal Code is amended to read:

11502. (a) Criteria for selection of education, training, and research programs for local public prosecutors and public defenders shall be developed by the Office of Criminal Justice Planning in consultation with an advisory group entitled the Prosecutors and Public Defenders Education and Training Advisory Committee.

(b) The Prosecutors and Public Defenders Education and Training Advisory Committee shall be composed of six local public prosecutors and six local public defender representatives, all of whom are appointed by the Executive Director of the Office of Criminal Justice Planning, who shall provide staff services to the advisory committee. In appointing the members of the committee, the executive director shall invite the Attorney General, the State Public Defender, the Speaker of the Assembly, and the Senate President pro Tempore to participate as ex officio members of the committee.

(c) The Office of Criminal Justice Planning, in consultation with the advisory committee, shall develop specific guidelines including criteria for selection of organizations to provide education, training, and research services.

(d) In determining the equitable allocation of funds between prosecution and defense functions, the Office of Criminal Justice Planning and the advisory committee shall give consideration to the amount of local government expenditures on a statewide basis for the support of those functions.

(e) The administration of the overall program shall be performed by the Office of Criminal Justice Planning. The office may, out of any

appropriation for this program, expend an amount not to exceed 7.5 percent for any fiscal year for such purposes.

(f) No funds appropriated pursuant to this title shall be used to support a legislative advocate.

(g) To the extent necessary to meet the requirements of the State Bar of California relating to certification of training for legal specialists, the executive director shall insure that, where appropriate, all programs funded under this title are open to all members of the State Bar of California. The program guidelines established pursuant to subdivision (c) shall provide for the reimbursement of costs for all participants deemed eligible by the Office of Criminal Justice Planning, in conjunction with the Legal Training Advisory Committee, by means of course attendance.

SEC. 3. Section 11504 is added to the Penal Code, to read:

11504. To the extent funds are appropriated from the Assessment Fund to the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503, the Office of Criminal Justice Planning shall allocate financial resources for statewide programs of education, training, and research for local public prosecutors and public defenders.

SEC. 4. Section 3 of Chapter 116 of the Statutes of 1982 is repealed.

CHAPTER 511

An act to amend and repeal Section 6571 of, and to add and repeal Section 6546.13 of, and to add Article 12 (commencing with Section 53590) to Chapter 3 of Division 2 of Title 5 of, the Government Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 6546.13 is added to the Government Code, to read:

6546.13. Notwithstanding Section 6553, any agency, commission, or board established by joint powers agreement pursuant to Article 1 (commencing with Section 6500) and created in a county of the fifth class, as determined by Section 28026, with authority to finance the acquisition, construction, and renovation of public health facilities, in the case of bonds issued with a rate of interest which is subject to periodic variation during the term of the bond issue and which are subject to the maximum rate of interest set forth in Section 6553, may provide for payment of interest on those bonds at a rate which exceeds the maximum allowable rate of interest in effect at

the time of issuance if (a) the initial rate of interest payable on the bonds does not exceed that maximum allowable rate, (b) prior to the issuance of the bonds the governing body of the hospital financing authority has estimated that the average rate of interest on the bonds during the term of the bond issue will not exceed the maximum allowable rate in effect at the time of issuance, which estimation shall be final and conclusive, and (c) the interest payable on the bonds does not exceed the greater of either (1) a rate which is 1 percent per annum above the prime rate of interest then in effect as used by a banking institution designated by the authority, or (2) the maximum allowable rate in effect at the time of issuance.

Notwithstanding Section 6553, interest on bonds of the authority may be made at times determined by the authority, as provided in the indenture authorizing issuance of the bonds, but no less frequently than annually.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date.

SEC. 2. Section 6571 of the Government Code is amended to read:

6571. The bonds shall be issued and sold as the governing body may determine and for not less than par and accrued interest to date of delivery, except that, in the case of a project for the generation or transmission of electric energy, a project for the disposal, treatment, or conversion of energy and reusable materials of solid waste, or a project for a purpose specified in Section 6546.6, or a project for an intermodal container transfer facility specified in Section 6546.12, or a project for a health facility specified in Section 6546.13, or in the case of bonds of a fair and exhibition authority, the bonds may be sold at less than par if the governing body determines that sale of the bonds at less than par will result in more favorable terms for the bonds. The sale shall be conducted in compliance with Chapter 10 (commencing with Section 5800) of Division 6 of Title 1, unless, in the case of a project for the generation or transmission of electric energy, a project for the disposal, treatment, or conversion of energy and reusable materials of solid waste, a project for the development and construction of an intermodal container transfer facility specified in Section 6546.12, a project for a health facility specified in Section 6546.13, or in the case of bonds of a fair and exhibition authority, the governing body determines that a negotiated sale of the bonds is necessary, in which case the bonds shall be sold on such terms as shall be approved by the governing body.

The proceeds from the sale (except premium and accrued interest, which shall be paid into the bond service or other fund designated or established for the payment of the principal and interest of the bonds) shall be paid into the construction fund or other fund designated by the indenture authorizing the issuance of the bonds and shall be applied exclusively to the objects and purposes set forth in such indenture, including all expenses incidental thereto

or in connection therewith, and also including the payment of interest on the bonds during the period of study and construction of the project and for a period not to exceed 12 months after completion of such construction.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1988, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1988, pursuant to Section 9611 of the Government Code, Section 6571 of the Government Code, as amended by Section 3 of Chapter 914 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Article 12 (commencing with Section 53590) is added to Chapter 3 of Division 2 of Title 5 of the Government Code, to read:

Article 12. Financial Advisers and Bond Counsel

53590. The following terms shall have the following meanings for purposes of this article.

(a) "Bond counsel" means any attorney or firm of attorneys that represent the issuer of a new issue of bonds with respect to the issuance of the bonds and that renders a written legal opinion to, or as counsel for, the issuer with respect to the validity of the bonds.

(b) "Bond" means any bonds, notes, certificates of participation, or other evidences of indebtedness issued by any local agency pursuant to any provision of law of the state. "New issue of bonds" means the original issuance of bonds, including refunding bonds, by the issuer to one or more purchasers until, in the case of underwriters, the end of the underwriting period. In the case of bonds with a tender or put option feature, or commercial paper, "new issue of bonds" means only the original issuance and not any remarketing, rollover, or reissuance.

(c) "A financial advisory relationship" exists when an investment firm, or other person or firm in the business of providing financial advisory or consulting services to issuers with respect to municipal securities, renders, or enters into an agreement to render, financial advisory or consultant services to, or on behalf of, an issuer with respect to a new issue or issues of bonds, including advice with respect to the structure, timing, terms, and other similar matters concerning the issue or issues, for a fee or other compensation or in expectation of such compensation for the rendering of those services. However, a financial advisory relationship does not to exist when, in the course of acting as an underwriter, an investment firm renders advice to an issuer, including advice with respect to the structure, timing, terms, and other similar matters concerning a new issue of bonds.

(d) "Investment firm" means any bank, investment bank, partnership, corporation, association, or other firm engaged in the business of buying and selling bonds for its own account or for the

account of others as part of its regular business.

(e) "Local agency" means a public district, public corporation, authority, agency, board, commission, county, city and county, city, school district, or other local public entity.

53591. No investment firm that has a financial advisory relationship with respect to a new issue of bonds shall acquire as principal either alone or as a participant in a syndicate or other similar account formed for the purpose of purchasing, directly or indirectly, from the issuer all or any portion of the issue, or arrange for the acquisition or participation by a person controlling, controlled by, or under common control with the investment firm, unless the issue is to be sold by the issuer at competitive bid and the issuer has, prior to the bid, expressly consented in writing to the acquisition or participation. The limitations and requirements set forth in this section also apply to any investment firm controlling, controlled by, or under common control with the investment firm having a financial advisory relationship. The use of the term "indirectly" in this section does not preclude any investment firm which has a financial advisory relationship with respect to a new issue of bonds from purchasing any of those bonds from an underwriter, either for its own trading account or for the account of its customers, except to the extent that the purchase is made to contravene the purpose and intent of this section.

53592. Each financial advisory relationship shall be evidenced by a written document executed prior to, upon, or promptly after the inception of the financial advisory relationship, or promptly after the creation or selection of the issuer if the issuer does not exist or has not been determined at the time the relationship commences. That written document shall set forth the basis of compensation for the financial advisory services to be rendered, which shall be on a basis other than as a percentage of the amount of the bonds to be sold.

53593. No bond counsel with respect to a new issue of bonds shall also be counsel, with respect to that new issue of bonds, to the underwriter or other purchaser of the bonds. This section does not preclude the bond counsel from rendering one or more opinions to the underwriter or purchaser with respect to the bonds, the documents or laws pursuant to which the bonds are issued, the official statement, offering circular, or other disclosure document describing the bonds, or any related matters, if the opinion is rendered as bond counsel and not as counsel to the underwriter or purchaser.

53594. Injunctive relief shall be available, subject to judicial discretion, to prohibit or enjoin any violation of this article, but no violation shall affect the authority, validity, or enforceability of bonds.

SEC. 4. Due to unique circumstances affecting the acquisition, construction, and renovation of public health facilities by a joint powers entity established by local agencies in a county of the fifth class, the Legislature finds and declares that a general act, within the

meaning of Section 16 of Article IV of the California Constitution, cannot be made applicable for the purposes of Sections 1 and 3 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:

Public entities have recently been able to reduce the cost of borrowing for capital improvements through the issuance of variable rate bonds. The joint exercise of powers law presently contains restrictions on the issuance of bonds which make it very difficult to issue variable rate bonds. In order to enable joint powers authorities to issue variable rate bonds to finance health facilities and in order to enact provisions regulating financial advisory relationships as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 512

An act to amend Sections 36601, 36633, 36661, 38903, 39351, 39352, 39353, 39381, 39382, 39411, 39431, 39432, 39461, 39491, and 39492 of, to amend the heading of Chapter 8 (commencing with Section 39351) of Part 3 of Division 15 of, to amend the heading of Article 7 (commencing with Section 39491) of Chapter 8 of Part 3 of Division 15 of, to add Article 8 (commencing with Section 39501) and Article 9 (commencing with Section 39521) to Chapter 8 of Part 3 of Division 15 of, to repeal and add Article 6 (commencing with Section 39471) of Chapter 8 of Part 3 of Division 15 of, and to repeal Sections 36632 and 39383 of, the Food and Agricultural Code, relating to dairy products.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 36601 of the Food and Agricultural Code is amended to read:

36601. The director shall adopt, by regulation, quality standards that are necessary for any product which is defined in this division. These quality standards which are adopted by the director shall be not lower than those which are in effect under regulations of the United States Department of Agriculture, but may be higher if found by the director to effectuate the purposes of this part, and of this section, which are, among others, to provide dairy products to the consumers of this state of the highest possible quality.

SEC. 2. Section 36632 of the Food and Agricultural Code is repealed.

SEC. 3. Section 36633 of the Food and Agricultural Code is

amended to read:

36633. If it appears that all of the prerequisite conditions exist for the establishment of a temporary definition and standard for a new milk product and that the public interest would be served by the establishment of a temporary definition or standard for the product, the director may establish a temporary definition and standard for the new milk product.

SEC. 4. Section 36661 of the Food and Agricultural Code is amended to read:

36661. In addition to the standards for milk and milk products which are adopted pursuant to this division, the director may adopt separate standards and labeling requirements for any milk or milk product to which is added a food product of a kind which is not derived from milk and for which combination of the food product with milk or milk products no standard has been established or otherwise provided for in this division.

SEC. 5. Section 38903 of the Food and Agricultural Code is amended to read:

38903. This chapter does not apply to:

(a) Margarine, dairy spread, or spread subject to Chapter 8 (commencing with Section 39351).

(b) A distinctive proprietary food compound which complies with all of the following requirements:

(1) Not readily mistaken in taste for milk, or for evaporated, skim, condensed, or dried milk.

(2) Prepared and designed for feeding infants and young children.

(3) Sold exclusively by druggists, orphanages, child welfare associations, hospitals, and similar institutions or for shipment outside of this state.

(c) Imitation ice cream and ice milk subject to Chapter 7 (commencing with Section 39151).

(d) Any product resembling a milk product which resembling product is subjected to a temperature high enough to sterilize the product and is packaged in an hermetically sealed container.

SEC. 6. The heading of Chapter 8 (commencing with Section 39351) of Part 3 of Division 15 of the Food and Agricultural Code is amended to read:

CHAPTER 8. MARGARINE, DAIRY SPREAD, AND SPREAD

SEC. 7. Section 39351 of the Food and Agricultural Code is amended to read:

39351. Except as otherwise provided, the provisions of this code which relate to margarine, dairy spread, or spread are likewise applicable to colored margarine, colored dairy spread, or colored spread.

SEC. 8. Section 39352 of the Food and Agricultural Code is amended to read:

39352. It is unlawful for any person knowingly to ship, or for any carrier for hire knowingly to receive for shipment, any margarine, dairy spread, or spread unless it is labeled in conformity with this chapter and shipped and receipted for in its true name, or unless it is in transit between foreign states.

SEC. 9. Section 39353 of the Food and Agricultural Code is amended to read:

39353. It is unlawful for any person knowingly to possess or have under his or her control any margarine, dairy spread, or spread, except for actual consumption by himself or herself or his or her family, unless it is labeled in conformity with this chapter.

SEC. 10. Section 39381 of the Food and Agricultural Code is amended to read:

39381. Each person that manufactures any margarine, dairy spread, or spread shall comply with this article.

SEC. 11. Section 39382 of the Food and Agricultural Code is amended to read:

39382. There shall be printed, stamped, or stenciled in a clear and durable manner upon one side of each tub, firkin, box, or other outer package in which margarine, dairy spread, or spread is removed from the place where it is produced or put up, as distinguished from the package in which it is to be put up for sale or sold at retail, all of the following:

(a) The words "oleomargarine," "margarine," "dairy spread," or "spread," as the case may be, in plain roman letters of not less than 36-point type.

(b) A statement, which is printed in plain roman type, of a size not smaller than pica, which states the name and address of the manufacturer or of the distributor.

SEC. 12. Section 39383 of the Food and Agricultural Code is repealed.

SEC. 13. Section 39411 of the Food and Agricultural Code is amended to read:

39411. It is unlawful for any person to sell any margarine, dairy spread, or spread, unless there is printed upon the label of each and every package, or other container in which the margarine, dairy spread, or spread is put up for sale or sold at retail all of the following:

(a) The words "oleomargarine," "margarine," "dairy spread," or "spread," as the case may be, in letters which are at least as large as any other type or lettering on the label. The word "oleomargarine," "margarine," "dairy spread," or "spread" shall be of a color in strong contrast to the color of the container.

(b) The name and address of the manufacturer or distributor.

(c) The net weight of the contents.

(d) A full and accurate statement of all the ingredients which are contained in the substance in the package.

SEC. 14. Section 39431 of the Food and Agricultural Code is amended to read:

39431. A person shall not sell or take orders for the future delivery

of any margarine, dairy spread, or spread under the name of butter, or under the pretense that the substance is butter.

SEC. 15. Section 39432 of the Food and Agricultural Code is amended to read:

39432. A person shall not, in connection or association with the sale or advertisement of any margarine, dairy spread, or spread represent or suggest by any means whatsoever that the substance is a dairy product. Nothing contained in this section shall, however, prevent an accurate and full statement of all of the ingredients which are contained in such substance.

SEC. 16. Section 39461 of the Food and Agricultural Code is amended to read:

39461. Colored margarine, colored dairy spread, or colored spread shall not be served to any patron in any restaurant or any other place where food is served to the public for consumption on the premises of sale unless the words "oleomargarine served here," "margarine served here," "dairy spread served here," or "spread served here" are printed on either of the following:

(a) Individual menus furnished to patrons in the legible type which is at least the size of type used to describe other food items on the menu. The words shall appear on the menu where other food items are described.

(b) If no individual menus are furnished, the words shall appear on a wall menu or next to a wall menu in legible type which is at least the size of type used to describe other food items on the menu.

SEC. 17. Article 6 (commencing with Section 39471) of Chapter 8 of Part 3 of Division 15 of the Food and Agricultural Code is repealed.

SEC. 18. Article 6 (commencing with Section 39471) is added to Chapter 8 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 6. Margarine

39471. Margarine (oleomargarine) is a substitute for butter which contains not less than 80 percent edible oils or fat and otherwise conforms to Part 166 (commencing with Section 166.40) of Title 21 of the Code of Federal Regulations.

SEC. 19. The heading of Article 7 (commencing with Section 39491) of Chapter 8 of Part 3 of Division 15 of the Food and Agricultural Code is amended to read:

Article 7. Colored Margarine, Dairy Spread, or Spread

SEC. 20. Section 39491 of the Food and Agricultural Code is amended to read:

39491. Colored margarine, dairy spread, or spread is margarine, dairy spread, or spread which has a tint or shade that contains more than 1.6 degrees of yellow, or of yellow and red collectively, but with

an excess of yellow over red, measured in terms of the Lovibond tintometer scale or its equivalent.

SEC. 21. Section 39492 of the Food and Agricultural Code is amended to read:

39492. Colored margarine may be sold at retail for consumption off the premises but shall not be sold except in a package or container which contains one pound or less.

SEC. 22. Article 8 (commencing with Section 39501) is added to Chapter 8 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 8. Dairy Spread

39501. Dairy spread is a substitute for butter which is made from a blend of milkfat, cultured buttermilk, milk solids-not-fat, and edible oil or fat, other than milk fat. Dairy spread may contain one or more of the following optional ingredients: salt, harmless flavor and color, any safe and suitable stabilizers and emulsifiers, and vitamins.

39502. Dairy spread shall contain a minimum of 40 percent fat and a minimum of 15 percent milk solids-not-fat; (60 percent of the blended fat ingredients shall be of milk fat origin) and may contain not more than 0.01 percent potassium sorbate to retard spoilage. Dairy spread shall be pasteurized.

SEC. 23. Article 9 (commencing with Section 39521) is added to Chapter 8 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 9. Spread

39521. Spread is a substitute for butter consisting of mixtures of compounds which may include milk solids-not-fat and edible oils and fats that is made in imitation or semblance of butter and does not meet the definition for margarine or dairy spread.

SEC. 24. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 513

An act to add Section 21201.6 to the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 21201.6 is added to the Government Code, to read:

21201.6. The board shall provide for a study of the issues raised in the case In re Marriage of Gillmore, 29 Cal, 3d 418, relating to the payment of the interest in benefits of the retirement system which interest is awarded, as part of the division of community property, to a nonemployee spouse, which study shall determine the feasibility of separation of the interest awarded the nonemployee spouse and direct payment of each interest to the owner thereof.

SEC. 2. There is hereby appropriated the sum of seventy-five thousand dollars ($75,000) from the Public Employees' Retirement Fund to the Public Employees' Retirement System for expenditure to carry out the purposes of Section 21201.6 of the Government Code, as added by this act.

CHAPTER 514

An act to amend Section 18522 of, to amend Section 19140, as added by Chapter 1759 of the Statutes of 1984, of, to add Section 19585 to, and to repeal Section 19140, as amended by Chapter 305 of the Statutes of 1984, of, the Government Code, relating to state civil service.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 18522 of the Government Code is amended to read:

18522. "Position" means any office or employment in the "state civil service" as the phrase is defined in Section 4 of Article VII of the Constitution.

"Former position" means either (a) the last position which an employee held as a probationer, permanent employee, or career executive, or (b) a position to which the same appointing power could have assigned such an employee within a designated geographical, organizational, or functional subdivision of a state agency as determined appropriate by the board. However, the former position shall not include positions from which the employee has been separated through disciplinary action, rejected during a probationary period, terminated under Section 19889.3, or terminated, demoted, or transferred in accordance with Section 19253.5; or terminated on a nonpunitive basis under Section 19585.

SEC. 2. Section 19140 of the Government Code, as amended by Chapter 305 of the Statutes of 1984, is repealed.

SEC. 2.5. Section 19140 of the Government Code, as added by Chapter 1759 of the Statutes of 1984, is amended to read:

19140. In addition to reinstatement required under any other section, an appointing power may, in his or her discretion, reinstate any person having probationary or permanent status who was separated from his or her position (a) by resignation, (b) by service retirement, (c) by termination from limited-term, temporary, career executive assignment, or exempt appointment, (d) under Section 19996.2, or (e) without a break in continuity of state service to accept another civil service or exempt appointment. In addition, when an employee who was separated from his or her position under Section 19585 again meets the requirements for continuing employment in that position, the employee shall have permissive reinstatement eligibility under this section. Reinstatement shall be undertaken subject to all of the following:

(a) Subject to board rule.

(b) Within three years if the employee, at the time of separation, was a member of the California Highway Patrol.

For reinstatement after separation, for members of the California Highway Patrol, the time spent in any of the following positions shall not be considered in computing the three-year period:

(1) In a position which is exempt from civil service.

(2) As a temporary employee in another governmental agency engaged in a technical cooperation program under an agreement approved by the state.

(3) In a recognized military service.

(c) To any of the following vacant positions:

(1) In the class vacated or from which separated.

(2) In a lower class in the same series.

(3) In a lower class in a related series requiring similar types of qualifications, knowledge, and abilities.

(4) In another class having substantially similar duties, responsibilities, and qualifications, and substantially the same salary range.

An employee separated from state service by layoff, or by resignation in lieu of layoff, may be reinstated at the discretion of the appointing power. However, the reinstatement is subject to the requirements of this section and shall not be to a position that is specifically subject to the employee's reemployment list eligibility.

SEC. 2.6. Section 19140 of the Government Code, as added by Chapter 1759 of the Statutes of 1984, is amended to read:

19140. In addition to reinstatement required under any other section, an appointing power may, in his or her discretion, reinstate any person having probationary or permanent status who was separated from his or her position (a) by resignation, (b) by service retirement, (c) by termination from limited-term, temporary, career executive assignment, or exempt appointment, (d) under

Section 19996.2, or (e) without a break in continuity of state service to accept another civil service or exempt appointment. In addition, when an employee who was separated from his or her position under Section 19585 again meets the requirements for continuing employment in that position, the employee shall have permissive reinstatement eligibility under this section. Reinstatement shall be undertaken subject to all of the following:

(a) Subject to board rule.

(b) Within three years if the employee, at the time of separation, was a member of the California Highway Patrol.

For reinstatement after separation, for members of the California Highway Patrol, the time spent in any of the following positions shall not be considered in computing the three-year period:

(1) In a position which is exempt from civil service.

(2) As a temporary employee in another governmental agency engaged in a technical cooperation program under an agreement approved by the state.

(3) In a recognized military service.

A member of the California Highway Patrol separated from state service may be reinstated to an otherwise appropriate nonmember class even if the separation exceeds three years.

(c) To any of the following vacant positions:

(1) In the class vacated or from which separated.

(2) In a lower class in the same series.

(3) In a lower class in a related series requiring similar types of qualifications, knowledge, and abilities.

(4) In another class having substantially similar duties, responsibilities, and qualifications, and substantially the same salary range.

An employee, including a member of the California Highway Patrol, separated from his or her former position in state service by layoff, or by resignation or demotion in lieu of layoff, may be reinstated at the discretion of the appointing power. However, the reinstatement is subject to the requirements of this section and shall not be to a position that is specifically subject to the employee's reemployment list eligibility.

SEC. 3. Section 19585 is added to the Government Code, to read:

19585. (a) This section shall apply to permanent and probationary employees and may be used in lieu of adverse action and rejection during probation when the only cause for action against an employee is his or her failure to meet a requirement for continuing employment, as provided in this section. This section shall not apply to cases subject to the provisions of termination or demotion for medical reasons or retirement for disability.

(b) An appointing power may terminate, demote, or transfer an employee who fails to meet a requirement for continuing employment that is prescribed by the board on or after January 1, 1986, in the specification for the classification to which the employee is appointed; provided that as prescribed by Article 11 (commencing

with Section 19991) of Chapter 1 of Part 2.6, the appointing power may grant the employee a leave of absence in lieu of one of the actions specified above. In prescribing requirements for continuing employment, the board may specify standards to ensure that the requirements are consistently applied. The board may also specify when separation from a position for failure to meet requirements for continuing employment also constitutes separation from former positions that the employee held in other classifications that have the same or greater requirements for continuing employment.

(c) For the purposes of this section, requirements for continuing employment shall be limited to the acquisition or retention of specified licenses, certificates, registrations, or other professional qualifications, education, or eligibility for continuing employment or advancement to the fully qualified level within a particular class series. The board shall prescribe procedures to ensure that employees affected by the requirements are informed of them. Requirements for continuing employment that are established for the purposes of this section shall not include medical, physical ability, work, or academy performance standards.

(d) For the purposes of this section, an employee who has filed a proper and timely application for renewal of a required license, registration, or certificate shall be considered as having maintained the license, registration, or certificate unless it is subsequently denied, revoked, or suspended.

(e) The employee shall receive at least five days' written notice of termination, demotion, or transfer and shall have the right to appeal the action to the board.

(f) When the requirements for continuing employment have been regained, terminated, demoted, or transferred employees may be reinstated pursuant to Section 19140.

(g) Any action under this section shall be considered nondisciplinary for the purposes of the State Civil Service Act and board rules.

SEC. 4. Section 2.6 of this bill incorporates amendments to Section 19140 of the Government Code proposed by both this bill and AB 1166. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 19140 of the Government Code, and (3) this bill is enacted after AB 1166, in which case Section 2.5 of this bill shall not become operative.

CHAPTER 515

An act to amend Sections 871.5 and 1001.5 of the Welfare and Institutions Code, relating to youth.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 871.5 of the Welfare and Institutions Code is amended to read:

871.5. (a) Except as authorized by law, or when authorized by the person in charge of any county juvenile hall, home, ranch, camp, or forestry camp, or by an officer of any such juvenile hall, home, or camp empowered by the person in charge to give such an authorization, any person who knowingly brings or sends into, or who knowingly assists in bringing into, or sending into, any county juvenile hall, home, ranch, camp, or forestry camp, or any person who while confined in such an institution possesses therein, any controlled substance, the possession of which is prohibited by Division 10 (commencing with Section 11000) of the Health and Safety Code, any firearm, weapon, or explosive of any kind, or any tear gas or tear gas weapon shall be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison.

(b) Except as otherwise authorized in the manner provided in subdivision (a), any person who knowingly uses tear gas or uses a tear gas weapon in an institution or camp specified in subdivision (a) is guilty of a felony.

(c) A sign shall be posted at the entrance of each county juvenile hall, home, ranch, camp, or forestry camp specifying the conduct prohibited by this section and the penalties therefor.

(d) Except as otherwise authorized in the manner provided in subdivision (a), any person who knowingly brings or sends into, or who knowingly assists in bringing into, or sending into, any county juvenile hall, home, ranch, camp, or forestry camp, or any person who while confined in such an institution knowingly possesses therein, any alcoholic beverage shall be guilty of a misdemeanor.

(e) This section shall not be construed to preclude or in any way limit the applicability of any other law proscribing a course of conduct also proscribed by this section.

SEC. 2. Section 1001.5 of the Welfare and Institutions Code is amended to read:

1001.5. (a) Except when authorized by law, or when authorized by the person in charge of an institution or camp administered by the Youth Authority, or by an officer of the institution or camp empowered by the person in charge of the institution or camp to give that authorization, any person who knowingly brings or sends into, or who knowingly assists in bringing into, or sending into, any institution or camp, or the grounds belonging to any institution or camp, administered by the Youth Authority, or any person who, while confined in the institution or camp knowingly possesses therein, any controlled substance, the possession of which is

prohibited by Division 10 (commencing with Section 11000) of the Health and Safety Code; any alcoholic beverage; any firearm, weapon or explosive of any kind; or any tear gas or tear gas weapon shall be punished by imprisonment in a county jail for not more than one year or by imprisonment in the state prison.

(b) Except as otherwise authorized in the manner provided in subdivision (a), any person who knowingly uses tear gas or uses a tear gas weapon in any institution or camp specified in subdivision (a) is guilty of a felony.

(c) This section shall not be construed to preclude or in any way limit the applicability of any other law proscribing a course of conduct also proscribed by this section.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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 516

An act to amend Sections 25168.1 and 25168.3 of the Health and Safety Code, relating to hazardous waste haulers.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 25168.1 of the Health and Safety Code is amended to read:

25168.1. The department shall adopt regulations for containers used to transport hazardous wastes not covered or packaged as required by federal regulations contained in Title 49 of the Code of Federal Regulations. The Department of the California Highway Patrol shall conduct an annual inspection of every truck, trailer, semitrailer, vacuum tank, cargo tank, or container used by registered waste haulers to transport hazardous waste on the highways, and every related maintenance facility or terminal and any records of registered waste haulers relating to vehicle maintenance and drivers' hours of service. The inspection shall be designed to determine if each vehicle and operation thereof complies with the Vehicle Code and with regulations adopted by the Highway Patrol under subdivisions (a) and (b) of Section 34501 of the Vehicle Code, and by the State Department of Health Services for containers used to haul hazardous waste. The Department of the California Highway Patrol shall determine whether the construction, design, equipment, and safety features of every such truck, trailer, semitrailer, vacuum

tank, cargo tank, or container are in compliance with the standards which the department determines are necessary for the safe transportation of hazardous waste.

SEC. 2. Section 25168.3 of the Health and Safety Code is amended to read:

25168.3. (a) Once a truck, trailer, semitrailer, vacuum tank, cargo tank, container, related maintenance facility or terminal, and any records relating to vehicle maintenance and drivers' hours of service have been inspected and found to be in compliance with all design, construction, and safety requirements, the department shall issue a sticker, label, or other suitable device constituting a certificate of compliance to identify waste hauling vehicles which have passed inspection and whose related maintenance facility or terminal has passed inspection. The certificate of compliance shall be plainly affixed to the truck, trailer, semitrailer, vacuum tank, cargo tank, or container. The size, shape, color, and design of the certificate of compliance and the positioning of the certificate shall be determined by the department.

(b) The indicia required by this section shall be incorporated with, or take the place of, any indicia issued pursuant to the provisions of this article.

CHAPTER 517

An act to add Section 5405.5 to the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 5405.5 is added to the Business and Professions Code, to read:

5405.5. In addition to those displays permitted pursuant to Section 5405, displays erected and maintained pursuant to regulations of the director, which will not be in violation of Section 131 of Title 23 of the United States Code, and which identify the location of a farm produce outlet where farmers sell directly to the public only those farm or ranch products they have produced themselves, may be placed or maintained within 660 feet from the edge of the right-of-way so that the copy of the display is visible from a highway.

The advertising displays shall indicate the location of the farm products but not the price of any product and shall not be larger than 150 square feet.

CHAPTER 518

An act to amend Section 1035.5 of the Insurance Code, relating to insurance.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 1035.5 of the Insurance Code is amended to read:

1035.5. Notwithstanding the provisions of Article 14 (commencing with Section 1010), with regard only to those insurers subject to this article:

(a) Within 120 days of the issuance of an order directing the winding up and liquidation of the business of an insolvent insurer under Section 1016, the commissioner shall make application to the court for approval of a proposal to disburse the insurer's assets, from time to time as such assets become available, to the California Insurance Guarantee Association and to any entity or person performing a similar function in another state.

(b) The proposal shall at least include the following provisions for:

(1) Reserving amounts for the payment of expenses of administration and the payment of claims of secured creditors (to the extent of the value of the security held) and claims falling within the priorities established in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 1033.

(2) Disbursement of the assets marshaled to date and subsequent disbursements of assets as they become available.

(3) Equitable allocation of disbursements to each of the associations entitled thereto.

(4) The securing by the commissioner from each of the associations entitled to disbursements pursuant to this section of an agreement to return to the commissioner such assets previously disbursed as may be required to pay claims of secured creditors and claims falling within the priorities established in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1033 in accordance with the priorities. No bond shall be required of any association.

(5) A full report to be made by the association to the commissioner accounting for all assets so disbursed to the association, all disbursements made therefrom, any interest earned by the association on the assets, and any other matter as the court may direct.

(c) The commissioner's proposal shall provide for disbursements to the associations in amounts estimated at least equal to the claim payments made or to be made by the associations for which such associations could assert a claim against the commissioner, and shall further provide that if the assets available for disbursement from

time to time do not equal or exceed the amount of the claim payments made or to be made by the associations, then disbursements shall be in the amount of available assets. The reserves of the insolvent insurer on the date of the order of liquidation shall be used for purposes of determining the pro rata allocation of funds among eligible associations.

(d) The commissioner shall offset the amount disbursed to any entity or person performing a function in any other state similar to that function performed by the California Insurance Guarantee Association by the amount of any statutory deposit, premiums, or any other asset of the insolvent insurer held in that state.

(e) Notice of such application shall be given to the associations in and to the commissioners of insurance of each of the states. Any such notice shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, at least 30 days prior to submission of such application to the court. Action on the application may be taken by the court provided the above required notice has been given and provided further that the commissioner's proposal complies with paragraphs (1) and (4) of subdivision (b).

CHAPTER 519

An act to amend Sections 23320, 23321.7, and 23954.7 of, and to add Section 23358.1 to, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 23320 of the Business and Professions Code is amended to read:

23320. The following are the types of licenses to be issued under this division and the annual fees to be charged therefor:

(1) Beer manufacturer's license	
(a) Beer manufacturers that produce 60,000 barrels or less a year	100.00 per year
(b) All other beer manufacturers	828.00 per year
(2) Winegrower's license or wine blender's license (to be computed only on the gallonage produced or blended), 5,000 gallons or less	22.00 per year
Over 5,000 gallons to 20,000 gallons per year	44.00 per year
Over 20,000 gallons to 100,000 gallons per	

	year	82.50 per year
	Over 100,000 gallons to 200,000 gallons per year	110.00 per year
	Over 200,000 gallons to 1,000,000 gallons per year	165.00 per year
	For each 1,000,000 gallons or fraction thereof over 1,000,000 gallons an additional	110.00 per year
(3)	Brandy manufacturer's license	168.00 per year
(4)	Distilled spirits manufacturer's license	276.00 per year
(5)	Distilled spirits manufacturer's agent's license	276.00 per year
(5a)	California winegrower's agent's license	276.00 per year
(6)	Still license	12.00 per year
(7)	Rectifier's license	276.00 per year
(7a)	Distilled spirits rectifier's general license	276.00 per year
(8)	Wine rectifier's license	276.00 per year
(9)	Beer and wine importer's license	No fee
(10)	Beer and wine importer's general license	56.00 per year
(11)	Brandy importer's license	No fee
(12)	Distilled spirits importer's license	No fee
(13)	Distilled spirits importer's general license	276.00 per year
(14)	Public warehouse license	12.00 per year
(15)	Customs broker's license	12.00 per year
(16)	Wine broker's license	56.00 per year
(17)	Beer and wine wholesaler's license	56.00 per year
(18)	Distilled spirits wholesaler's license	276.00 per year
(18a)	California brandy wholesaler's license	276.00 per year
(19)	Industrial alcohol dealer's license	56.00 per year
(20)	Retail package off-sale beer and wine license	24.00 per year
(21)	Retail package off-sale general license	350.00 per year
(22)	On-sale beer license	168.00 per year
(23)	On-sale beer and wine license	168.00 per year
(24)	On-sale beer and wine license for trains (per train)	16.00 per year
(25)	On-sale beer license for fishing party boats (per boat)	32.00 per year
(26)	On-sale beer and wine license for boats (per boat)	56.00 per year
(27)	On-sale beer and wine license for airplanes (per scheduled flight)	16.00 per year
(28)	On-sale general license:	
	In cities of 40,000 population or over	580.00 per year
	In cities of less than 40,000 but more than 20,000 population	412.00 per year

	In all other localities	360.00 per year
(29)	On-sale general license for seasonal business:	
	In cities of 40,000 population or over	145.00 per quarter year
	In cities of less than 40,000 but more than 20,000 population	103.00 per quarter year
	In all other localities	90.00 per quarter year
(30)	(a) On-sale general license for bona fide clubs,	
	(b) Club license (issued under Article 4 of this chapter), or	
	(c) Veterans' club license (issued under Article 5 (commencing with Section 23450) of this chapter):	
	In cities of 40,000 population or over	330.00 per year
	In cities of less than 40,000 but more than 20,000	248.00 per year
	In all other localities	220.00 per year
(31)	On-sale general license for trains and sleeping cars	128.00 per year
	Duplicate on-sale general license for trains and sleeping car companies.....	32.00 per year
(32)	On-sale general license for boats	332.00 per year
(33)	On-sale general license for airplanes.....	332.00 per year
	Duplicate on-sale general license for air common carriers.....	10.00 per year
(34)	On-sale general license for vessels of more than 1,000 tons burden	128.00 per year
	Duplicate on-sale general license for vessels of more than 1,000 tons burden	32.00 per year
(35)	On-sale general bona fide public eating place intermittent dockside license for vessels of more than 7,000 tons displacement	360.00 per year
(36)	On-sale special beer and wine license for hospitals, convalescent homes, and rest homes	56.00 per year

SEC. 2. Section 23321.7 of the Business and Professions Code is amended to read:

23321.7. The on-sale general bona fide public eating place intermittent dockside license for vessels of more than 7,000 tons displacement may be issued for any vessel of more than 7,000 tons displacement with cabin berth capacity for at least 75 passengers. Each license issuable under this section shall be used only in the county where issued, but a vessel qualified under this section may be issued such a license in more than one county. Notwithstanding

the provisions of Section 23397, the licensee under each such license shall be authorized to sell alcoholic beverages to the general public aboard the vessel respecting which the license is issued when the vessel is securely lashed on berth in the county for which the license is issued, provided that such sales are incidental to the passenger operations of such vessel and such beverages are purchased from persons licensed to sell alcoholic beverages for resale in this state. In no event shall the rights under any such license be exercised in any county during more than 100 calendar days in any calendar year. Notwithstanding the provisions of Article 2 (commencing with Section 23815) of Chapter 5 of this division, there shall be no limitation, other than provided in this section, on the number of licenses that may be issued under this section to applicants who meet its requirements. Except as otherwise specifically provided in this section, all provisions of this division shall apply to any license issued under this section in the same manner as such provisions apply to an on-sale general license issued for a bona fide public eating place, provided that no caterer's permit may be issued pursuant to Section 23399 with respect to any license issued hereunder, and provided further that any duplicate license issued pursuant to Section 24042 respecting such vessel shall bear the same fee specified by subdivision (35) of Section 23320.

SEC. 3. Section 23358.1 is added to the Business and Professions Code, to read:

23358.1. Notwithstanding any other provision of this division, a licensed winegrower who produces less than 50,000 gallons of wine per year, may also sell wine to consumers for consumption on the premises of a bona fide eating place for which the licensed winegrower or his or her spouse held an on-sale license on January 1, 1985, and which eating place is located in a county of the third class, is located off the premises of the winegrower, and is owned by, and operated by or for, the licensee.

SEC. 4. Section 23954.7 of the Business and Professions Code is amended to read:

23954.7. An applicant for an original on-sale general bona fide public eating place intermittent dockside license for vessels of more than 7,000 tons displacement shall, at the time of filing the application for the license, accompany the application with a fee of two thousand dollars ($2,000), but such fee shall not be payable upon the renewal or transfer of such license.

CHAPTER 520

An act to amend Section 21339 of the Government Code, relating to public retirement systems, and making an appropriation therefor.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985.]

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

SECTION 1. Section 21339 of the Government Code is amended to read:

21339. Notwithstanding any other provision of this part, a member who elected to receive optional settlement 2, 3, or 4, involving life contingency of the beneficiary, may, if his or her beneficiary predeceases him or her, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of his or her lifetime under the optional settlement previously chosen applied to a lesser allowance during his or her remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary. The election shall be made within 12 months following the death of the beneficiary who predeceased the member or within 12 months following remarriage if a new spouse is named as beneficiary.

Notwithstanding any other provision of this section, any member whose beneficiary died prior to January 1, 1986, may make the election prior to January 1, 1988, provided, that any resulting change in the retirement allowance shall apply only on and after the effective date of the election.

SEC. 2. Section 21339 of the Government Code is amended to read:

21339. Notwithstanding any other provision of this part, a member who elected to receive optional settlement 2, 3, or 4, involving life contingency of the beneficiary, may, if the beneficiary predeceases the member or, if a spouse was named, in the event of a dissolution or annulment of the marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement system to the retired member, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary. The election shall be made within 12 months following the death of the beneficiary who predeceased the member or within 12 months of the date of entry of the judgment dividing the community property of the parties, or within 12 months following

marriage if the spouse is named as beneficiary. In the case of a member whose spouse was named as beneficiary, and as a result of a dissolution or annulment of a marriage or a legal separation the judgment dividing the community property awards the total interest in the retirement system to the retired member, and the member thereafter marries prior to January 1, 1986, the election shall be made prior to January 1, 1987.

Notwithstanding any other provision of this section, any member whose beneficiary died prior to January 1, 1986, may make the election prior to January 1, 1988, provided, that any resulting change in the retirement allowance shall apply only on and after the effective date of the election.

SEC. 3. There is hereby appropriated from the Public Employees' Retirement Fund the sum of eighty-five thousand dollars ($85,000) to the Public Employees' Retirement System for expenditure to implement Section 21339 of the Government Code, as amended by this act.

SEC. 4. Section 2 of this bill incorporates amendments to Section 21339 of the Government Code proposed by both this bill and SB 560. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 21339 of the Government Code, and (3) this bill is enacted after SB 560, in which case Section 1 of this bill shall not become operative.

CHAPTER 521

An act to amend Section 21339 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 21339 of the Government Code is amended to read:

21339. Notwithstanding any other provision of this part, a member who elected to receive optional settlement 2, 3, or 4, involving life contingency of the beneficiary, may, if the beneficiary predeceases the member or, if a spouse was named, in the event of a dissolution or annulment of the marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement system to the retired member, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's remaining lifetime under one of the

optional settlements specified in this article and name a different beneficiary. The election shall be made within 12 months following the death of the beneficiary who predeceased the member or within 12 months of the date of entry of the judgment dividing the community property of the parties, or within 12 months following marriage if the spouse is named as beneficiary. In the case of such a member whose beneficiary died prior to January 1, 1975, the election shall be made prior to January 1, 1976. In the case of a member whose spouse was named as beneficiary, and as a result of a dissolution or annulment of a marriage or a legal separation the judgment dividing the community property awards the total interest in the retirement system to the retired member, and the member thereafter marries prior to January 1, 1986, the election shall be made prior to January 1, 1987.

SEC. 2. Section 21339 of the Government Code is amended to read:

21339. Notwithstanding any other provision of this part, a member who elected to receive optional settlement 2, 3, or 4, involving life contingency of the beneficiary, may, if the beneficiary predeceases the member or, if a spouse was named, in the event of a dissolution or annulment of the marriage or a legal separation in which the judgment dividing the community property awards the total interest in the retirement system to the retired member, elect to have the actuarial equivalent reflecting any selection against the fund resulting from the election as of the date of election of the allowance payable for the remainder of the member's lifetime under the optional settlement previously chosen applied to a lesser allowance during the member's remaining lifetime under one of the optional settlements specified in this article and name a different beneficiary. The election shall be made within 12 months following the death of the beneficiary who predeceased the member or within 12 months of the date of entry of the judgment dividing the community property of the parties, or within 12 months following marriage if the spouse is named as beneficiary. In the case of a member whose spouse was named as beneficiary, and as a result of a dissolution or annulment of a marriage or a legal separation the judgment dividing the community property awards the total interest in the retirement system to the retired member, and the member thereafter marries prior to January 1, 1986, the election shall be made prior to January 1, 1987.

Notwithstanding any other provision of this section, any member whose beneficiary died prior to January 1, 1986, may make the election prior to January 1, 1988, provided, that any resulting change in the retirement allowance shall apply only on and after the effective date of the election.

SEC. 3. Section 2 of this bill incorporates amendments to Section 21339 of the Government Code proposed by both this bill and AB 1632. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section

21339 of the Government Code, and (3) this bill is enacted after AB 1632, in which case Section 1 of this bill shall not become operative.

CHAPTER 522

An act to amend Section 5153 of the Business and Professions Code, relating to accountants.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 5153 of the Business and Professions Code is amended to read:

5153. The name of an accountancy corporation and any name or names under which it may be rendering professional services shall contain the name or the last name of one or more of the present, prospective, or former shareholders, or of persons who were associated with a predecessor person, partnership, or other organization and whose name or names appeared in the name of such predecessor organization, and shall include either (1) the words "accountancy corporation" or (2) the word "accountant" or "accountants" and wording or abbreviations denoting corporate existence.

No accountancy corporation may render professional services under a name unless the name has been approved by the board as being neither false nor misleading. No accountancy corporation which has only one shareholder may render professional services under a firm name which includes plural terms such as "and company" or "and associates," unless the accountancy corporation employs a full-time staff consisting of two or more licensed persons, as defined in the Moscone-Knox Professional Corporation Act, or a full-time staff consisting of one licensed person and at least one other employee or assistant, as described in Section 5053.

CHAPTER 523

An act to amend Sections 1302 and 1307 of the Military and Veterans Code, relating to veterans, and making an appropriation therefor.

[Approved by Governor September 8, 1985. Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 1302 of the Military and Veterans Code is amended to read:

1302. The commission may request staff support and facilities for its activities from the Department of Veterans Affairs, and the department may provide that support.

The commission is responsible for setting policy. It is the duty of the staff hired by the commission to carry out that policy.

SEC. 2. Section 1307 of the Military and Veterans Code is amended to read:

1307. This chapter shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1988, deletes or extends that date.

CHAPTER 524

An act to amend Sections 75102 and 75103 of, and to add Sections 9358.01 and 75103.3 to, the Government Code, relating to state retirement systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1985 Filed with Secretary of State September 9, 1985]

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

SECTION 1. Section 9358.01 is added to the Government Code, to read:

9358.01. Notwithstanding any other provision of law, the state may pick up, for the sole purpose of deferring income taxes thereon, as authorized by Section 414(h)(2) of the Internal Revenue Code (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the normal contributions required to be paid by a member. The payment shall be reported as employer-paid contributions and shall be credited to member accounts.

Nothing in this section shall be construed to limit the authority of the state to periodically eliminate the pickup by the state of all of the normal contributions required to be paid by the member, as authorized by this section.

SEC. 2. Section 75102 of the Government Code is amended to read:

75102. Except as provided in Section 75103.3, the Controller shall at the end of each month commencing with the salary for the month of July 1964 deduct 8 percent from the monthly salary of each Justice of the Supreme Court and of the courts of appeal and of the portion paid by the state of the monthly salary of each judge of the superior court and shall cause this amount to be paid into the Judges' Retirement Fund.

SEC. 3. Section 75103 of the Government Code is amended to read:

75103. Except as provided in Section 75103.3, the auditor of each county shall deduct 8 percent from the portion paid by such county of the monthly salary, commencing with the monthly salary for the month of July 1964 of each judge of the superior court and municipal court, and cause this amount to be paid into the Judges' Retirement Fund.

SEC. 4. Section 75103.3 is added to the Government Code, to read:

75103.3. Notwithstanding any other provision of law, the state and the county may pick up, for the sole purpose of deferring income taxes thereon, as authorized by Section 414(h)(2) of the Internal Revenue Code (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the normal contributions required to be deducted under Sections 75102 to 75103, inclusive, and paid into the Judges' Retirement Fund. The payments shall be reported as employer-paid normal contributions and shall be credited to the judge's account.

Nothing in this section shall be construed to limit the authority of the state or the county to periodically eliminate the pickup by the state of all of the normal contributions required to be paid by a judge, as authorized by this section.

This section shall not affect the computation of a judge's retirement allowance.

SEC. 5. There is hereby appropriated from the Judges' Retirement Fund the sum of eleven thousand dollars ($11,000) to the Board of Administration of the Public Employees' Retirement System for expenditure for the purposes of implementing Section 75103.3 of the Government Code, as enacted by this act.

SEC. 6. There is hereby appropriated from the Legislators' Retirement Fund the sum of seven thousand five hundred dollars ($7,500) to the Board of Administration of the Public Employees' Retirement System for expenditure for the purposes of implementing Section 9358.01 of the Government Code, as enacted by this act.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This bill would establish a procedure by which income taxes on contributions payable by members of the Legislators' Retirement System to that system and by judges to the Judges' Retirement System which are, instead, picked up by the respective employers through the process known as "employer pick up," in lieu of the contributions being paid by the members of the Legislators' Retirement System and the judges, respectively, may be deferred until the contributions are distributed or made available by the respective retirement system to its members. In order that the benefits authorized by this act may be conferred at the earliest possible time, it is necessary that this act take effect immediately.